Laws, Resolutions and Memorials

OF THE

STATE OF MONTANA

PASSED AT THE

Ninth Regular Session

OF THE

Legislative Assembly

Held at Helena, the Seat of Government of said State, Commencing January 2nd, 1905, and Ending March 2nd, 1905.

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Certificate of Authentication.

STATE OF MONTANA, }
SECRETARY'S OFFICE. } ss.

I, A. N. Yoder, Secretary of State of the State of Montana, do hereby certify that the printed laws, resolutions and memorials contained herein are true and correct copies of all the enrolled laws, resolutions and memorials that were passed at the Ninth Regular Session of the Legislative Assembly of said State, commencing January 2nd, 1905, and ending March 2nd, 1905, and held at Helena, the seat of government of said State, with the exception of corrections in orthography and punctuation, and omission or substitution words inserted in brackets.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of said State. Done at Helena, the seat of government of the said State of Montana, this first day of April, A. D. 1905.

[SEAL]

A. N. YODER,

Secretary of State.

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Officers and Members

of the

Ninth Legislative Assembly

of the

State of Montana.

Governor, JOSEPH K. TOOLE.

Lieutenant-Governor and President of the Senate, EDWIN NORRIS.

Speaker of the House of Representatives, WYLLYS A. HEDGES.

STATE SENATORS

NAME	Politics	County	Postoffice Address
Albright, Jacob	Rep	Madison	Virginia City
*Bentall, Maurice	Rep.	Rosebud	Rosebud
*Bielenberg, John N. W.	Rep.	Powell	Deer Lodge
Bourne, George Blake	Rep	Choteau	Hill
Brennen, William James	Rep	Flathead	Big Fork
Donlan, Edward	Rep	Missoula	Missoula
Durham, George P.	Dem.	Granite	Philipsburg
*Glidden, Samuel Hurd	Dem.	Carbou	Bridger
*Harper, Wm. W	Rep.	Deer Lodge	Anaconda
Johnson, Edward A.	Dem.	Ravalli	Hamilton
Maddox, Fletcher	Rep.	Cascade.	Great Falls
Mahon, Archibald W.	Dem.	Valley.	Glasgow
*Martien, Charles H	Dem.	Lewis and Clarke	Helena
*Miles, Arthur Willington	Rep.	Park	Livingston
*McCarthy, Jerrie C.	Dem.	Gallatin.	Bozeman
*McCone. George	Rep.	Dawson	Reeta
*McDonnell, Charles	Rep.	Sweet Grass.	Melville
*McLean, Kenneth	Rep.	Custer	Miles City
Ralston, Samuel Franklin.	Dem.	Teton	Chouteau
Sherlock, Henry Lloyd.	Dem.	Jefferson	Boulder
Tewey, Daniel.	Dem.	Silver Bow	Butte
*Tooley, Clarence P.	Rep.	Meagher	Two Dot
Waite, John David.	Rep.	Fergus	Lewistown
Whipple, Charles Amos, Sr.	Dem.	Broadwater	Townsend
*White, Benjamin F.	Rep	Beaverhead	Dillon
Yegen, Christian.	Rep	Yellowstone	Billings.

Holdovers, Elected 1904.

CHARLES E. WIGHT, Secretary,

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HOUSE OF REPRESENTATIVES.

NAME	Politics	County	Postoffice Address
Bembrick, B. F.	Dem.	Broadwater	Radersburg
Bennett, Alden J	Rep	Madison	Virginia City
Berry, William West	Dem.	Lewis and Clark	Helena
Blake, Harold Niles	Rep	Deer Lodge	Anaconda
Blankenship, Edwin Van.	Dem.	Gallatin	Bozeman
Brewster, George W	Rep	Rosebud	Birney
Brigham, Orin Pierce.	Rep	Chouteau	Havre
Buck, Amos	Rep	Ravalli	Stevensville
Burt, George W	Rep	Custer	Terry
Canoll, Harry N.	Rep	Deer Lodge	Anaconda
Carriher, Charles E	Lab.	Lewis and Clark	Helena
Christian, Edward H	Rep	Missoula	Missoula
Coleman, John. A.	Dem.	Silver Bow	Butte
Collier, Parie O.	Dem.	Flathead	Kalispell
Cone, John F.	Rep	Ravalli	Hamilton
Decker, Alpheus.	Rep	Beaverhead	Red Rock.
Dempsier, Charles William	Lab.	Silver Bow	Butte
English, Gus B.	Rep	Deer Lodge	Anaconda
Everett, Thomas Madison	Rep	Chouteau	Harlem
Fairbanks, Charles E	Rep	Missoula	Plains
Forsythe, Benjamin O	Rep	Sweet Grass	Melville
Geyman, Charles, L	Lab.	Silver Bow	Butte
Harrington, Daniel	Dem.	Deer Lodge	Anaconda
Hayes, John	Dem.	Cascade	Great Falls
Hedges, Wyllys Anderson	Rep	Fergus	Yale
Hewett, Marcus L	Rep	Jefferson	Basin
Hillman, John Roland	Rep	Flathead	Columbia Falls
Huntington, E	Dem.	Carbon	Red Lodge
Johnston William M	Dem.	Yellowstone	Billings
Kennedy, Jacob M	Dem.	Silver Bow	Butte
Lannin, Charles	Lab.	Silver Bow	Butte
Lanstrum, Oscar Monroe	Rep	Lewis and Clark	Marysville
Leiper, A. P	Rep	Dawson	Glendive
Linderman, Frank Bird.	Rep	Madison	Sheridan
Metcalf, George.	Rep	Granite	Philipsburg
Meunier, Joseph	Dem	Silver Bow	Butte.
Mulroney, Edward Camillus	Rep	Missoula.	Missoula
Mumbrue, Daniel P.	Rep	Meagher	Wolsey
Murray, Charlie Livingston	Rep	Cascade	Great Falls
Murphy, John S	Lab	Silver Bow	Butte
McDonald, Alexander D.	Dem.	Flathead	Kalispell.
MacGinnis, John	Anti-Tr D	Silver Bow	Butte
O'Brien, Sylvester	Fusion	Silver Bow	Butte
O'Connor, John E.	Dem	Broadwater	Canton
Patten, T. M.	Rep	Valley	Glasgow
Potter, Samuel E	Rep	Teton	Shelby
Quigley, John R., Jr.	Dem.	Powell	Ophir
Reel, William A.	Dem	Madison	Norris.
Richardson, T. Wesley, Jr.	Rep	Lewis and Clark	East Helena
Roach, Dennis R.	Dem.	Deer Lodge	Anaconda
Roll, J. F.	Dem	Gallatin	Spring Hill
Ross, Samuel M	Rep	Missoula	Missoula
Sales, Walter Henry	Rep	Gallatin	Manhattan
Sanden, Fred S.	Lab.	Lewis and Clark	Helena
Sanders, James	Rep	Cascade	Great Falls
Schoonover, James Samuel.	Dem.	Granite	Philipsburg.
Selway, Earnest Owens	Rep	Beaverhead	Dillon
Sewell, Jonathan	Rep	Deer Lodge	Anaconda
Shannon, Joseph	Lab.	Silver Bow	Butte
Starz, Emil.	Dem	Lewis and Clark	Helena
Stevens, Melyer.	Rep	Meagher.	Winnecook
Sullivan, D. J.	Dem.	Jefferson	Basin
Sullivan, Timothy D	Dem.	Lewis and Clark	Marysville
Sykes, Henry N.	Rep	Custer	Ekalaka
Teskey, Angus	Dem	Jefferson	Wickes
Vandyck, Lewis Henry	Rep	Park	Gardiner
Walker, Thomas J	An.Tr D.	Silver Bow	Butte
Wiedman, George J.	Rep	Fergus	Lewistown
Williams William Henry	Rep	Park	Cokedale
Wilson, Charles Albert	Rep	Cascade	Great Falls
Wood, George Rodney	Dem.	Cascade	Great Falls
Wyman, John Sidney	Dem.	Silver Bow	Butte

NATHAN GODFREY, Chief Clerk.

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GENERAL LAWS

CHAPTER 1.

An Act to determine the liability of persons or corporations operating railways or railroads in this State for damages sustained by employees thereof, and to declare void contracts restricting such liability.

Be it Enacted by the Legislative Assembly of the State of Montana:

Liability of railway corporation for personal injuries to employee.

Section 1. Every person or corporation operating a railway or railroad in this State shall be liable for all damages sustained by any employee of such person or corporation in consequence of the neglect of any other employee or employees thereof, or by the mismanagement of any other employee or employees thereof, and in consequence of the wilful wrongs, whether of commission or omission, of any other employee or employees thereof, when such neglect, mismanagement or wrongs, are in any manner connected with the use and operation of any railway or railroad on or about which they shall be employed, and no contract which restricts such liability shall be legal or binding.

Right of action survives.

Section 2. In case of the death of any such employee in consequence of any injury or damage so sustained, the right of action shall survive and may be prosecuted and maintained by his heirs or personal representatives.

Repealing clause.

Section 3. All Acts and parts of Acts in conflict with this Act are hereby repealed.

When act takes effect.

Section 4. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Jan'y 16th, 1905.

CHAPTER 2.

An Act to Amend Section 1 of an Act entitled, "An Act to Authorize the Trustees of School Districts to Repay Moneys Borrowed and Used by such Trustees for Maintenance of Schools therein, and to Levy and Collect a Tax upon all the Taxable property in such Districts, or to issue and sell the Bonds of such Districts Therefor, as such Trustees shall deem Advisable," approved February 19, 1901.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1 of an act approved February 19, 1901, amended.

Section 1. That Section 1 of an Act entitled, "An Act to Authorize the Trustees of School Districts to Repay Moneys Borrowed and Used by such Trustees for Maintenance of Schools therein, and to Levy and Collect a Tax upon all the Taxable property in such Districts, or to issue and sell the Bonds of such Districts Therefor, as such Trustees shall deem Advisable," approved February 19, 1901, shall be amended to read as follows:

Section 1. That whenever, before the passage of this act, the taxes levied and collected in any school district upon the taxable property of said district, for the necessary maintenance of the schools therein, have been insufficient for the necessary maintenance of said schools, and for that reason the trustees of said school district have been compelled to borrow money for the necessary maintenance of said schools, in order to prevent the closing of the same for a portion of the regular school year of said district, and have borrowed money for the necessary maintenance of said schools, and such moneys so borrowed cannot be repaid out of the total amount of taxes that may be raised by maximum levy for school purposes, in such district, without using the funds of the district needed to pay the necessary current expenses for the maintenance of the schools therein, and thereby necessitating the closing of such schools for the whole or a portion of the regu-

Trustees of school district empowered to levy tax to raise money to repay loans.

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lar current school year of such district for one or more years, then the said trustees shall be, and are hereby, empowered to raise money to repay, and to repay such loans, with interest thereon from the date thereof until paid at the rate of six per cent per annum, by levying a tax therefor upon all the taxable property in said district in the manner provided in the following sections.

Repealing clause.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Jan'y 27, 1905.

CHAPTER 3.

"An Act to enable the Normal School Land Grant to be further utilized in providing additional buildings and equipment for the Montana State Normal College."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

State Board of Land Commissioners authorized to issue coupon bonds to amount of $75,000.

The State Board of Land Commissioners of the State of Montana is hereby authorized and directed to issue coupon Bonds to the amount of Seventy-five Thousand (75,000) dollars. The Denomination of said bonds shall be One Thousand (1000) dollars each, and they shall be known as the State Normal Bonds of 1905. Said Bonds shall become due in Twenty years from the date of issue and be payable, at option of the State, in ten years from their date. Said Bonds shall bear interest at a rate of not more than five per cent per annum, payable semi-annually, on the first days of May and November in each year, at the office of the State Treasurer of the State of Montana. Said Bonds shall run from the State Board of Land Commissioners of the State of Montana, to bearer, and shall be signed

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by the State Board of Land Commissioners, and countersigned by the Secretary of State who shall attach his seal thereto. Provided, however, that nothing in this Act shall be so construed as to hold the State of Montana liable for the payment of said Bonds or the interest thereon.

Section 2.

Bond to contain condition.

Each Bond issued under the provisions of this Act shall contain a condition substantially as follows:

"This Bond is one of a series of seventy-five Bonds of the denomination of One Thousand (1000) dollars each, of like tenor and date, and numbered from one to seventy-five inclusive, and aggregating the sum of Seventy-five Thousand (75,000) dollars. The right is hereby reserved to redeem this Bond at any regular

Conditions of Bonds.

interest period as stated herein, on and after three years from its date, by the payment of the principal and interest in full to date of redemption, and a premium upon the face value of the Bond of five per cent. Provided, that not less than sixty days notice shall be given by the State Treasurer of such intention to redeem by publication in not less than one newspaper published in the City of New York, and one newspaper published in the City of Helena, Montana; and provided further that such redemption shall be made by serial number, beginning with the bond bearing the lowest number then outstanding.

Section 3.

Date and sale of bonds.

Said Bonds shall bear date of May 1st, 1905, and shall be issued and sold as soon as possible after the passage of this act.

Section 4.

Funds realized from sale or leasing of lands and licenses to cut trees on lands granted by the United States to State of Montana, pledged as security for the payment of

All funds realized from the sale, or of the leasing of the lands, and licenses to cut trees thereon, (being One Hundred Thousand Acres) granted by the United States to the State of Montana for the establishment and maintenance of a State Normal School, under and by virtue of the provisions of Section 17 of the Act of

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Congress, approved February 22nd, 1889, entitled An Act to provide for the Division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form State Governments, and to be admitted into the union on an equal footing with the original States, and to make donations of public lands to such States" except such sums as may be necessary for the payment of the bonds heretofore issued against such funds, and the interest thereon, are hereby pledged as security for the payment of the principal and interest of the Bonds issued and authorized by this Act, and all moneys and revenues received from said Lands or any of them, whether on account of sales of lands, or of leases or sales of timber therefrom, or otherwise, (excepting such moneys as may be necessary for the payment of the principal and interest on Bonds heretofore issued, as above referred to) are hereby set apart and shall continue as a separate fund for the payment of the principal and interest of the Bonds issued by reason hereof as hereinafter provided.

principal and interest of bonds.

Separate fund created.

Section 5.

It shall be the duty of the State Treasurer to keep all moneys derived from the sale, leases or sale of timber from the State Normal School Lands, as hereinbefore mentioned, in a separate fund, to be known and designated as "The State Normal School Fund" and out of the moneys in such fund, he shall pay, after the approval of the State Board of Examiners.

Fund to be designated "State Normal School Fund."

1st.

All sums due as principal or interest on the Bonds heretofore issued and referred to in Section 3 of this Act.

Payment of principal and interest.

2nd.

The cost and expenses of issuing and selling the Bonds authorized by this Act.

Payment of cost of issue.

3rd.

The interest on the Bonds herein authorized, when due; and

Payment of interest.

4th.

Duty of State Treasurer.

When such bonds shall become due or payable, he shall call in and pay the same as rapidly as the money in such fund will admit, after providing for the interest on same. In the event that there shall not be sufficient money in the said fund to pay the interest when due, the State Board of Examiners shall, by an order entered on its minutes, cause warrants to be issued on the said fund for the amount of interest then due, and the warrants so issued shall bear interest at the rate of five (5) per cent. per. annum; said warrants shall be paid by the State Treasurer as soon as sufficient money accumulates in said fund applicable thereto to pay the same, and by reason of the delivery of said warrants to the holders of said Bonds in satisfaction of accrued interest there shall be no default thereof.

State Board of Examiners to cause warrants to be issued on State Normal School Fund.

Section 6.

State Treasurer to advertise sale.

It shall be the duty of the State Treasurer to give notice by advertising for not less than two insertions, in one newspaper published in the City of Helena, Montana, and one newspaper published in the City of New York, that he will, on the first day of April, 1905, sell the Seventy-five thousand (75000) dollars of bonds hereby authorized, and will receive bids therefor, and said bonds shall on said day be sold to the highest bidder, or to the person offering to take the same at the lowest rate of interest, as may be directed by the State Board of Land Commissioners. If no bids are then received, or if none are accepted, said Bonds may thereafter be sold at private sale: Provided, that the State Board of Land Commissioners shall receive and open all bids and accept or reject the same, as it may deem for the best interests of the State; and provided further, that said bonds shall not be sold for less than par.

State Board of Land Commissioners to open bids.

Section 7.

How money expended.

The moneys derived from the sale of said Bonds shall be used to erect, furnish and equip an addition to the

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present State Normal School Building, at Dillon, Montana, and shall be paid out for such purpose by the State Treasurer upon vouchers approved by the Executive Board of said State Normal School, and allowed and ordered paid by the State Board of Examiners.

Section 8.

State Board of Education to approve plans and specifications.

The erection and equipment of said building shall be under the control of the said Executive Board, but all plans, specifications and contracts shall be subject to approval by the State Board of Education before the same shall become valid and binding.

Section 9.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 2nd, 1905.

CHAPTER 4.

An Act to amend Section 2776 of the Code of Civil Procedure of the State of Montana, relating to compensation of executors and administrators.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 2776 of Code of Civil Procedure amended.

That Section 2776 of the Code of Civil Procedure of the State of Montana be amended so as to read as follows:

Sec. 2776.

Compensation of executors.

When no compensation is provided by the will, or the executor renounces all claims thereto, he must be allowed commissions upon the amount of the estate accounted for by him, as follows: For the first thousand dollars, at the rate of seven per. cent: for all above that sum, not exceeding ten thousand dollars, at the rate of five per. cent: for all above ten thousand dollars, not exceeding twenty thousand dollars, at the rate of four per. cent: and for all above twenty thou-

sand dollars, at the rate of two per. cent. If there be more than one executor, only one commission must be allowed. The same commissions must be allowed to administrators. In all such cases further allowances may be made as the court or judge may deem just and reasonable for any extraordinary services. The total amount of such extra allowance must not exceed the total amount of commission allowed by this section.

Section 2.

Repealing clause.

All Acts and parts of acts in conflict herewith are hereby repealed.

Section 3.

When act takes effect.

This Act shall take effect and be in force from and after its passage and approval.

Approved Feb'y 2nd, 1905.

CHAPTER 5

An Act to amend Section 1, of an Act approved February 22nd, 1899, Entitled, "An Act to amend Sections 720 and 722, Chapter VI, Title VI, Part II, of the Code of Civil Procedure of Montana, relating to Pleadings in Civil Actions."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1 of act approved February 22d, 1899, amended.

Section 1. That Section 1 of an Act approved February 22nd, 1899, entitled "An Act to amend Sections 720 and 722, Chapter VI, Title VI, Part II, of the Code of Civil Procedure of Montana, relating to Pleadings in Civil Actions" is hereby amended to read as follows:

"Section 1. Section 720, Chapter VI, Title VI, Part II, of the Code of Civil Procedure is hereby amended so as to read as follows:

What may be pleaded in replication.

Section 720. Where the answer contains a Counter Claim, or any new matter, the plaintiff, if he does not demur, shall within twenty days after service and filing of the answer, reply to such Counter Claim or new matter, denying, generally or specifically, each allega-

tion controverted by him, or of any knowledge or information thereof sufficient to form a belief, and he may allege, in ordinary or concise language, and without repetition, any new matter, not inconsistent with the complaint, constituting a defense to such Counter Claim or new matter in the Answer."

Repealing clause.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 3, 1905.

CHAPTER 6.

An Act to Amend Sections 471 and 473 of the Penal Code of the State of Montana, relating to Abandonment and Neglect of Children.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 471 of Penal Code amended.

That Section 471 of the Penal Code of the State of Montana be and the same is hereby amended so as to read as follows:

Punishment for desertion of child with intent to abandon.

Section 471. Every parent of any child under the age of twelve years, and every person to whom any such child has been confided for nurture or education, who deserts such child in any place whatever, with the intent wholly to abandon it, shall be punished by imprisonment in the state prison not exceeding seven years, or in a county jail not exceeding one year.

Section 2.

Section 473 of Penal Code amended.

That Section 473 of the Penal Code of the State of Montana be and the same is hereby amended so as to read as follows:

Cruel treatment of child a misdemeanor.

Section 473. Every person who has the legal care or custody of an infant, minor child or apprentice, and

cruelly treats, abuses or inflicts unnecessary and cruel punishment upon the same or wilfully abandons or neglects such child, is guilty of a misdemeanor.

Section 3.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 4. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 3, 1905.

CHAPTER 7.

"An Act to Provide for the Prevention and Eradication of Scabies among horses, mules, asses and cattle."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Board of Stock Commissioners have power to employ means to eradicate disease.

In addition to the powers now conferred upon it by law the Board of Stock Commissioners of this State shall have the power and it shall be its duty to determine the existence of and employ the most efficient and practical means to prevent, suppress, control and eradicate the disease known as scabies, among horses, mules, asses and cattle; and to direct and regulate the handling, dipping or treating of any of the aforesaid classes of live stock when infected with or exposed to the said disease; to make and adopt such quarantine and sanitary regulations to that end as may be by it deemed expedient, provided, that all such regulations shall so far as practicable conform to the regulations in that regard of the Department of Agriculture of the United States as they shall be from time to time promulgated; and to create and define districts within which such disease exists; provided further that in determining the district or districts within this State in which such disease from time to time exists, said

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board shall co-operate with the said Department of Agriculture.

A majority of said Board shall constitute a quorum, and the said Board may exercise any of the powers conferred upon it by this Act through committees of its own members thereto specially empowered by resolution. Quorum.

Section 2.

Whenever the said Board shall from time to time have determined that said disease exists in any such district or districts, and created and defined the same, the same shall be known as an infected district or districts, and the Board shall as soon as possible after creating such infected district, cause notice of the creation and of the limits thereof to be given by publication once a week for three successive weeks in some newspaper published within and of general circulation within said district, and if no newspaper be published therein, then in some newspaper published at a point nearest thereto; and thereupon it shall be the duty of all persons owning or having the control of any of the aforesaid classes of live stock within the boundaries of said district, to dip or treat said live stock within said district or so much of said live stock as the regulations of said Board applicable to said district may require the dipping of all such live stock to be in strict compliance with the regulations of said Board, and within such reasonable time after the completion of the publication of the notice of the creation of said district as said Board may prescribe. The said Board shall, before publishing said notice, as to any created district, prescribe the dipping regulations applicable thereto; and shall publish said regulations with said notice. Infected districts. Duty of persons owning live stock in infected districts. Board to prescribe regulations.

Section 3.

It shall be the duty of said Board of Stock Commissioners promptly upon the expiration of thirty (30) days after the completion of the publication of the notice of the creation of any such infected district, to caused to be seized and gathered and dipped and Board to dip and treat live stock.

Expense of dipping and treating.

treated any undipped or untreated live stock of the classes named within said district; provided, however, that no obligation shall exist or be created by or against the said Board on account of the dipping or treating of any live stock by it, but such expenses shall be a charge against and shall be paid by said Board out of any sums realized out of the lien of liability by this Act created.

Section 4.

State Veterinarian and Stock Inspectors subject to control of Board.

The State Veterinarian and Stock Inspectors shall be subject to the supervision and control of the said Board in the exercise of the powers conferred upon it by this Act, and they shall accomplish all orders to them by said Board directed and perform all duties that may be imposed upon them by the regulations of said Board, and to that end whenever necessary, they may enter upon and examine any car, yard, stable, corral, steamboat or any building or premises to examine any said live stock therein or thereon, and otherwise do whatever may be found necessary and proper therein or thereon to the effectual discharge of their said powers and duties.

Section 5.

Stock Inspectors deemed Deputy State Veterinarians.

The Stock Inspectors shall be deemed for the purpose of accomplishing the provisions of this Act, Deputy State Veterinarians, and subject to the approval of the Department of Agriculture of the United States, the Inspectors appointed by it may also be appointed Deputy State Veterinarian by the said Board for the purpose of this Act, and they shall hold said appointment at the pleasure of said Board so long as they remain inspectors of said Department and as such are stationed in this state, and they shall act as such Deputies without bond or compensation from the State and shall possess all the powers and duties of Deputy State Veterinarians as needed for the purpose of this Act.

Section 6.

Dipping under supervision of State Veterinarian.

All dipping shall be under the supervision of the

State Veterinarian, and every person within the district who shall own or control any of said live stock required to be dipped or treated therein, shall as soon as the same shall have been dipped or treated in conformity with the regulations of said Board, be entitled to receive and shall receive from the State Veterinarian a certificate in writing to that effect. The said Board is hereby empowered and required by regulation to impose and collect a dipping inspection fee to cover the estimated cost of dipping or treating supervision incurred under its regulations.

Dipping inspection fee.

Section 7.

For all sums paid out by the said Board, pursuant to the provisions of this Section, and in addition thereto such further sum per head of live stock dipped or treated as in this Act provided, as may be fixed by the said Board by regulation as a penalty, and for all amounts due on account of dipping or treating supervision it shall have a lien upon all such live stock so dipped or treated and any other live stock of the person owning the same, which lien shall be a first lien and superior to any other lien, claim or demand against said live stock, which said lien the said Board shall have power to enforce by appropriate action and it may further maintain an action to recover from the owner of such live stock the amount of said lien.

Expense of Board a lien upon live stock dipped or treated.

The Board shall cause to be kept in the office of the Secretary thereof a record of all sums due to it on account of payments made or expenditures incurred on account of the dipping of any such live stock, or on account of dipping or treating supervision, together with the brand of all live stock affected by the lien aforesaid and the name of the owner thereof. A certified copy of such record shall be filed in the office of the County Clerk where such owner resides, or where such live stock are, if the owner does not reside in the State of Montana, which shall be deemed to impart notice of such lien. No such lien shall be effective until such certified copy is so filed.

Board to keep record of expenditures and brand of live stock affected by lien.

Certified copy of record to be filed in office of County Clerk.

Section 8.

Violation of provisions of this act a misdemeanor.

Any owner or person having control of any of said live stock or any other person whether an officer or employee of said Board or a private person who shall wilfully violate any provisions of this Act or regulations or orders lawfully made in conformity therewith, or who shall in any manner hinder or obstruct the execution of any such regulation or order, or hinder, resist or obstruct any officer or employee of said Board or the State Veterinarian or any of his Deputies or any Stock Inspector in the discharge of his duty or in the exercise of his lawful powers or who shall wilfully or negligently break any quarantine, or wilfully or negligently suffer any quarantined animal or animals to escape from quarantine, shall be deemed guilty of a misdemeanor.

Section 9.

Repealing clause.

All Acts or parts of Acts in conflict herewith are hereby repealed.

Section 10.

When act takes effect.

This Act shall be in full force and effect from and after its approval by the Governor.

Approved Feb'y 6th, 1905.

CHAPTER 8.

"An Act to amend Sections 1221 and 1222 of Chapter I, Title IX, Part II, of the Code of Civil Procedure relating to exemptions and restricting the right to claim certain exemptions to married persons and to persons who are heads of families."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 1221 of Code of Civil Procedure amended.

That Section 1221 of Chapter I, Title IX, Part II, of the Code of Civil Procedure be, and the same is hereby amended to read as follows:

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Property exempt from execution.

Section 1221. The following property is exempt from execution, except as herein otherwise provided: In all cases all wearing apparel of the judgment debtor and family; also all chairs, tables, desks and books to the value of two hundred dollars; and also all necessary household, table and kitchen furniture of the judgment debtor, including one sewing machine, stoves, stove-pipes and stove furniture, heating apparatus, beds, bedding and bedsteads, and provisions and fuel provided for individual or family use sufficient for three months, and also one horse, saddle and bridle, two cows and their calves, four hogs and fifty domestic fowls, and feed for such animals for three months, one clock and all family pictures. An unmarried person who is not the head of a family, is not entitled to any of the exemptions herein mentioned, except that of the wearing apparel of the judgment debtor.

Section 2.

Section 1222 of Code of Civil Procedure amended.

That Section 1222 of Chapter I, Title IX, Part II, of the Code of Civil Procedure be, and the same is hereby amended to read as follows:

Section 1222. In addition to the property mentioned in the preceding Section, there shall be exempt to all judgment debtors who are married, or who are heads of families, the following property:

Additional property exempt to a farmer.

1. To a farmer: Farming utensils or implements of husbandry, not exceeding in value six hundred dollars; also, two oxen, or two horses or mules, and their harness, one cart or wagon, set of sleds, and food for such oxen, horses, cows or mules for three months; also, all seed, grain or vegetables actually provided, or on hand, for the purpose of planting or sowing the following spring, not exceeding in value the sum of two hundred dollars.

Mechanic or artisan.

2. To a mechanic or artisan: Tools or implements necessary to carry on his trade.

Surgeon, physician or dentist.

3. To a surgeon, physician or dentist: The instruments and chest necessary to the exercise of his pro-

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fession, with his scientific and professional libraries, and necessary office furniture.

Attorneys at law, ministers of the gospel, etc.

4. To attorneys at law and ministers of the gospel, etc.: The professional libraries of attorneys, counselors and judges, and ministers of the gospel, editors, school teachers and music teachers, and their necessary office furniture; also the musical instruments of music teachers; also the notarial seal, records and office furniture of a notary public.

Miners.

5. To a miner: His cabin or dwelling, sluices and pipes, hose, windlass, derricks, cars, pumps, tools, implements and appliances necessary for carrying on any kind of mining operations, not exceeding in value the aggregate sum of one thousand dollars, and one horse or mule with harness, and food for such horse or mule, for three months, when such horse or mule is used in working his mine or mining claim.

Civil, mining or mechanical engineer.

To a civil, mining or mechanical engineer: Instruments, tools, books and records necessary to carry on his profession.

Chemist or assayer.

To a chemist or assayer: The tools, instruments and supplies necessary to carry on his profession.

Cartman, hackman, huckster, peddler, teamster or laborer.

Earnings of judgment debtor.

6. To a cartman, hackman, huckster, peddler, teamster, or laborer: One horse or mule, and harness for two animals or two oxen, and harness, and one cart or wagon, one dray or truck, one hack or carriage, by the use of which such persons habitually earns his living; and one vehicle and harness or other equipments used by a physician or surgeon or minister of the gospel in making his professional visits, with food for such horse, mule or oxen for three months.

Earnings of judgment debtor.

7. The earnings of the judgment debtor for his personal services rendered at any time within thirty days next preceding the levy of execution or attachment, when it appears by the debtor's affidavit, or otherwise, that such earnings are necessary for the use of his family, supported in whole or in part by his labor; but where debts are incurred by any such person, or his wife or family, for the common necessaries

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of life; the one-half of such earnings above mentioned are, nevertheless, subject to execution, garnishment or attachment to satisfy debts so incurred. The words "his family," as used herein, are to be construed with the words "head of family" used in Section 1694 of the Civil Code.

Words, "his family," construed.

8. All moneys, benefits, privileges, or immunities accruing or in any manner growing out of any life insurance on the life of the debtor, if the annual premiums paid do not exceed five hundred dollars.

Life insurance on life of debtor.

9. All fire engines, hooks and ladders, with the cart, trucks and carriages, hose, buckets, implements, and apparatus thereto appertaining, and all furniture and uniforms of any fire company or department organized under any laws of this state.

Fire company.

10. All arms, uniforms, and accoutrements required by law to be kept by any person, and also one gun, to be selected by the debtor.

Firearms, etc.

11. All court houses, jails, public offices, and buildings, lots, grounds, and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the court house, jail and public offices belonging to any county of this state, and all cemeteries, public squares, parks, and places, public buildings, town halls, public markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by such city or town to health, ornament or public use, or for the use of any fire or military company organized under the laws of the state.

Property owned by town or incorporated city.

No article, however, or species of property mentioned in this section, is exempt from execution issued upon a judgment recovered for its price, or upon a judgment of foreclosure of a mortgage lien thereon, and no person not a bona fide resident of this state shall have the benefit of these exemptions. No person can claim more than one of the exemptions mentioned in the first six subdivisions of this section.

Not exempt on judgment obtained for purchase price.

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Section 3.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 6, 1905.

CHAPTER 9.

An Act to Create the County of Sanders, Designate its Boundaries, and Provide for its Organization and Government.

Be it Enacted by the Legislative Assembly of the State of Montana:

Sanders County.

Section 1. That all that portion of the State of Montana embraced within the following boundaries shall be known as, and shall be, Sanders County, in the State of Montana, to-wit: Beginning at a point in the center of the main channel of the Pend d'Oreille River, where said river intersects the boundary line of the Counties of Missoula and Flathead; running thence southerly along the center of the main channel of the said Pend d'Oreill River to the mouth of Mission Creek; thence southerly in a straight line to a point one mile east of the Southeast corner of the present site of the Northern Pacific Depot in the Town of Dixon, where the said County line crosses the Northern Pacific Railway Track; thence due south to the summit of the Range of Mountains commonly called the Coeur d'Alene, said Mountains dividing the waters of the Missoula and Pend d'Oreille Rivers; thence westerly along said summit of the Coeur d'Alene Mountains, to a point where said summit crosses the Township line between Townships 17 and 18 North; thence West along said Township line to the Southwest corner of Township 18 North, Range 26 West; thence North on said line be-

Boundaries.

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tween ranges 26 and 27 to the summit of the Coeur d'Alene Mountains; thence westerly along the summit of said Coeur d'Alene Mountains to the boundary line between the State of Montana and the State of Idaho, and northerly along said boundary line to the south boundary of Flathead County, State of Montana; thence easterly along the boundary line of Flathead County to place of beginning.

Atached to Fourth Judicial District.

Section 2. That for judicial purposes the said County of Sanders shall be attached to and become a part of the Fourth Judicial District of the State of Montana.

County seat.

Section 3. That the Town of Thompson Falls, situated within the boundaries above mentioned, shall be the county seat of said County of Sanders, until the county seat of said county shall be designated as hereinafter provided. And for the purpose of definitely fixing and creating the county seat of the County hereby created, the Board of County Commissioners of Sanders County shall cause to be inserted in the official ballots, when printed for the general election held the first Tuesday after the first Monday in November, A. D. 1906, at the foot of the names of the candidates, or nominees thereon, the following: "For the County Seat of Sanders County ————————," and the electors, when voting at the said general election at the time hereinbefore mentioned, shall declare their vote upon said proposition by inserting in the blank space upon their ballots herein provided for, the name of some one town within said County of Sanders, and when the name of a town shall be so inserted in the said space by an elector, and the ballots have been cast as provided by law, the same shall be deemed a vote for the designated town as the place of the permanent county seat of Sanders County, and upon a canvass of the said ballots the town having the highest number of ballots shall be declared by the canvassing board the County seat of Sanders County, which result shall be entered of record in the office of the County Clerk and

Duty of County Commissioners.

Recorder of said Sanders County, and from the date of such declaration of result, the town selected shall be and remain, until lawfully changed, the County Seat of Sanders County. All laws of a general nature applicable to the several counties of the State of Montana, and the officers thereof, shall be made applicable to said County of Sanders, and the officers, who may hereafter be elected, or appointed, therein, except as otherwise provided in this Act.

Apportionment of indebtedness between Missoula and Sanders counties.

Section 4. That all the indebtedness of Missoula County, as the same shall exist on the first day of January, 1906, shall be apportioned between the County of Missoula and the County of Sanders by first deducting from said indebtedness the amount of all moneys on hand, and the amount of all moneys belonging to the said Missoula County, and also deducting the value of all real and personal property within or belonging to the said Missoula County on the said first day of January, 1906; and the remainder of said indebtedness shall be apportioned between the respective counties in proportion to the amount of taxable property in Missoula County, and the taxable property in Sanders County, and heretofore within the boundaries of Missoula County; said amount of taxable property to be ascertained, and said apportionment and valuation of county property to be made by a commission consisting of the Boards of County Commissioners of Missoula County and Sanders County, and the Judge of Department One of the First Judicial District of the State of Montana, which said Commission shall meet at the Court House in the City of Missoula on the first Tuesday of March, 1906, and shall take as a standard for said apportionment of indebtedness the assessment for the year 1905 as determined by the Board of Equalization of said Missoula County.

Duty of Treasurer of Missoula County.

Section 5. That the Treasurer of Missoula County shall at the time of the adjustment, as provided in Section 4 of this Act, make out and transmit to the County Commissioners of Sanders County, a list of all delin-

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quent taxes and amounts of uncollected taxes within the limits of Sanders County, as above defined, provided that no delinquent taxes due the County of Missoula shall be considered in the adjustment of the debt, as hereinbefore provided; but it shall be the duty of the Treasurer of Missoula County to collect such delinquent taxes as may be due said County and to turn over, within thirty days after making such collection, to the Treasurer of Sanders County a pro rata share of such taxes as he may be able to collect. It is further provided that should there be a surplus of funds in the hands of the Treasurer of Missoula County, after the adjustment hereinbefore provided, said surplus shall be divided between the respective counties of Missoula and Sanders, in the same manner as herein provided for dividing the indebtedness.

Division of surplus.

Section 6. That upon the adjustment of said indebtedness, it shall be the duty of the County Commissioners of Sanders County, to cause to be made out, issued and delivered to the County Commissioners of Missoula County, warrants for any amount found due said Missoula County, which warrants, upon presentation, shall be endorsed by the Treasurer of Sanders County, "Not paid for want of funds," and shall thereafter draw interest as other County Warrants.

County Commissioners of Sanders County to issue warrants.

Section 7. The County Commissioners of the County of Sanders, for the purpose of paying any indebtedness which may be incurred, by reason of assuming any of the indebtedness of Missoula County, are hereby authorized and empowered to cause to be issued, and to sell at not less than par, the bonds of said County of Sanders in an amount equal to said indebtedness so incurred, in the manner provided for by law for the issuing and sale of county bonds.

County Commissioners of Sanders County empowered to issue bonds.

Section 8. It is hereby made the duty of the County Treasurer of Missoula County, to transfer and pay over on or before the first day of March, 1906, all moneys in said Missoula County, to the credit of school districts embraced within the limits of said County of Sanders,

County Treasurer of Missoula County to transfer school moneys.

as may have been hereby taken from said County of Missoula, which said moneys so transferred shall be held by the Treasurer of said County of Sanders, to the credit and for the use of the same school districts as they formerly existed.

County Commissioners of Sanders County to contract for transcribing and indexing records.

Section 9. That the County Commissioners of said Sanders County are hereby empowered, and it shall be their duty, to contract with the lowest responsible bidder, for transcribing and indexing all records of property lying and being within the limits of the County of Sanders, and all other public records, which transcripts, when compiled, shall be compared with the original records by the County Clerk of Missoula County, and when correct shall be by him so certified under his official seal, and thereafter the records so transcribed and certified to shall be received and admitted in evidence in all courts of law in the State, and be in all respects entitled to like faith and credit as said original records. The County Clerk of Missoula County shall receive for his services in comparing and certifying to the correctness of the copies of said records, Five Dollars ($5.00) per day while engaged in said labor, which amount shall be paid by the County of Sanders on the completion of said labor.

Compensation of County Clerk for certifying copies of records.

Section 10. The following named persons are hereby appointed to fill the offices set opposite their names:

Officers of Sanders County.

W. R. Beamish,.....County Commissioner.
W. A. Beebe,.....County Commissioner.
C. H. Rittenour,.....County Commissioner.
S. L. Vanderpool,.....Treasurer.
C. E. Baker,.....Sheriff.
D. W. Brown,.....Assessor.
L. E. Smith,.....Clerk of the District Court.
H. R. Stephens,.....Clerk and Recorder.
H. C. Schultz,.....County Attorney.
Miss Beulah Wheeler,..Superintendent of Schools.
Frank Foster,.....County Surveyor.
L. Helterline,.....Public Administrator.
Dr. C. B. Lebcher,.....Coroner.

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Powers, duties and term of office.

All of said Officers shall have power, and perform the same duties, and be entitled to the same privileges, as are by law conferred upon like officers in other counties, and shall hold their respective offices until after the next general election, or until their successors are duly elected and qualified. Said officers, however, before entering upon their duties, shall severally give bonds, and take the oath, as required of the county officers of other counties of this state, and said bonds shall be filed, as by law required, and approved by the State Auditor.

Oath and bond

Compensation of officers.

Section 11. That the Officers appointed and mentioned herein in Section 10 of this Act, shall each be allowed to receive an annual compensation for their services as such officers, as follows, to-wit:

For each County Commissioner, the sum of Six Dollars ($6.00) per day, when in actual session, not to exceed the sum of Two Hundred and Fifty Dollars ($250.00) per year.

Treasurer, Twelve Hundred Dollars.

Sheriff, Fifteen Hundred Dollars.

Clerk & Recorder, Twelve Hundred Dollars.

Assessor, Twelve Hundred Dollars.

Clerk of the District Court, Twelve Hundred Dollars.

County Attorney, Twelve Hundred Dollars.

Supt. of Schools, Nine Hundred Dollars.

Public Administrator, as provided by law.

Surveyor, as provided by law.

Coroner, as provided by law.

Said salaries shall commence when said Officers shall enter upon their respective duties, and shall not be increased until the assessed valuation of said Sanders County is more than Four and less than Six Million Dollars, when said salaries shall be for said respective officers as provided in Section 4594, Part IV, Title II, Chapter IV, of the Political Code of the State of Montana.

Commissioners to subdivide county into townships and

Section 12. That at their first meeting the said commissioners of Sanders County, are empowered to sub-

appoint township officers.

divide said County into municipal townships, and establish road districts, and they are hereby authorized to appoint two justices of the peace and two constables, for each municipal township, and road supervisors for each road district, when required, as provided by the Statutes of Montana, who shall hold their respective offices until their successors are elected and qualified. And all township and precinct officers, road supervisors, officers of school districts, and all other officers, within and for the County of Sanders, whose election or appointment is not provided for, shall, or may continue to hold office and exercise the duties pertaining thereto until the expiration of the term for which said officers were elected or appointed.

Not to construct court house.

Section 13. No Court House shall be constructed by said County of Sanders until the County Seat is, as hereinbefore provided, fixed, and the valuation of assessed property within said County shall exceed the sum of Three Million Dollars.

Boundaries of Missoula County.

Section 14. The County boundaries of Missoula County are hereby altered so as to conform to the boundaries of Sanders County as established by this Act.

Repealing clause.

Section 15. All Acts and parts of Acts so far as the same are in conflict with the Provisions of this Act, are hereby repealed.

When act takes effect.

Section 16. This Act shall take effect from and after March first, 1906.

Approved Feb'y 7th, 1905.

CHAPTER 10.

An Act to Amend Section 1054 of the Penal Code, as Amended by Chapter LXIV of the Laws of 1903, Relating to Trespass and Adding thereto a Subdivision Relating to Trespass on Vacant Buildings.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 1054 of Penal Code amended.

That Section 1054 of the Penal Code of the State of

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Montana, as Amended by Chapter LXIV of the Laws of 1903, be Amended so as to read as follows:

Section 1054. Every person who wilfully or maliciously commits any trespass by either:—

1. Cutting down, destroying or injuring any kind of wood or timber standing or growing upon the lands of another; or — Cutting timber.

2. Carrying away any kind of timber or wood lying on such lands; or — Carrying away timber.

3. Maliciously injuring or severing from the freehold of another anything attached thereto or the produce thereof; or — Severing from freehold.

4. Digging, taking or carrying away from any lot situated within the limits of any incorporated city without the license of the owner or legal occupant thereof, any earth, soil, or stone; or — Taking earth, soil or stone.

5. Digging, taking or carrying away from any land in any cities of the state, laid down on the map or plan of said cities otherwise recognized or established as a street or alley, avenue or park, without the license of the proper authorities, any earth, soil or stone; or — Taking earth, soil or stone from platted land in city.

6. Putting up, fastening, printing or painting upon any property belonging to the state, or to any city, county, town or village, or dedicated to the public or upon any property of any person without license of the owner any notice, advertisement or designation thereof, or any name of any commodity, whether for sale or otherwise, or any picture, sign or device intended to call attention thereto; or — Printing or painting advertisements on property belonging to state, city, county, etc.

7. Hunts without permission, upon the enclosed premises of another; or — Hunting.

8. Destroying, defacing or injuring any door, window or other portion of any vacant residence or other buildings, or maliciously opening any closed door or window of such buildings, or entering therein or on without the consent of the owner, agent or tenant of such premises or by authority of law, is guilty of misdemeanor. — Defacing residence, etc. — Misdemeanor.

Section 2.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3.

When act takes effect.

This Act shall be in full force and effect, from and after its passage and approval by the Governor.

Approved Feb'y 9, 1905.

CHAPTER 11.

An Act Making it Unlawful for any person to require the Giving of Surety Bonds in corporations not authorized to transact business in the State of Montana.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1

Unlawful to give surety bond of corporation not having complied with laws of state.

It shall hereafter be unlawful for any person, association or corporation, foreign or domestic, to require any person in his or its employ to make or execute, or to procure to be made or executed, any bond or undertaking for the faithful discharge of his duties, or upon any other consideration, with any corporation not organized under the laws of the State of Montana as surety thereon, unless said corporation shall first have complied with the laws of the State of Montana authorizing it to transact business therein.

Section 2.

Bonds with organization not having complied with law, as surety, void.

All bonds and undertakings entered into by any citizen or resident of the state of Montana, with any such organization as surety, touching or affecting any services to be rendered or acts to be performed in the State of Montana, in whole or in part, unless such corporation shall first have complied with the laws of the State of Montana, shall be void.

Section 3.

Failure to comply with law a misdemeanor.

Any person, association or corporation which shall exact or require of any person, or make it a condition

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of employment or the retention of employment, that he make or execute any bond or undertaking with any such corporation, having so failed to comply with the laws of the State of Montana entitling it to transact business therein, as surety thereon, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than One Hundred ($100.00) Dollars and not more than One Thousand ($1000.00) Dollars.

Penalty.

Section 4.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Repealing clause.

Section 5.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

When act takes effect.

Approved Feb'y 9, 1905.

CHAPTER 12.

An Act to Authorize and Empower Cities and Towns to Establish, Maintain and Regulate Public Bathing Places.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That all cities or towns incorporated under the laws of the State of Montana, in addition to other powers conferred upon them, are hereby empowered and authorized to establish and maintain a Public Bathing Place within said city or town, and to defray the cost and expense of maintaining said Public Bathing Place, said city or town is hereby authorized and empowered to contract an indebtedness, upon behalf of said city or town, upon the credit thereof, by borrowing money or issuing bonds; provided that no money may be borrowed, and no bonds may be issued for said purpose, until the proposition has been submitted to the vote of the taxpayers affected thereby of the city or town, and a majority vote be cast therefor.

Incorporated cities or towns empowered to establish public bathing place.

May borrow money and issue bonds.

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To pass by-laws and ordinances for establishment and maintenance of public bathing place.

Section 2. Power is hereby granted to the city or town council of all cities and towns incorporated under the laws of the State of Montana, to make and pass all by-laws, ordinances, resolutions and orders necessary for the establishment, maintenance and regulation of a public bathing place within said city or town, including the power to establish by ordinance a reasonable and uniform charge for the privilege of using said bathing place.

Repealing clause.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 4. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 10, 1905.

CHAPTER 13.

An Act to Correct the Spelling of the Name, "Lewis and Clarke County."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Name of Lewis and Clarke County corrected in spelling.

That the Name of Lewis and Clarke County be, and the same is hereby corrected in its spelling to read "Lewis and Clark County."

Section 2.

Not to affect actions pending, etc.

That nothing contained in the foregoing Section shall affect any action or proceeding heretofore begun in said county, and no records, blanks or other printed matter now on hand in said County, containing the said name as now spelled, shall be affected by this Act.

Section 3.

Repealing clause.

That all Acts and parts of Acts in conflict with this Act are hereby repealed.

Section 4.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 10th, 1905.

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CHAPTER 14.

An Act to Amend Section 2000 of the Political Code of the State of Montana, Relative to the School Library Fund and Permitting the use of such Fund for the Payment of Current Expenses of the Schools.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That Section 2000 of the Political Code of the State of Montana be and the same is hereby amended so as to read as follows: Section 2000 Political Code, amended.

Section 2000. A Library Fund is hereby created, and the board of school trustees must expend the Library Fund, together with such moneys as may be added thereto by donation, in the purchase of books for a school library, including books for supplementary work, provided, that in school districts other than cities, maintaining a free public library and having a population of two thousand or more such Library Fund may, in the discretion of the board of trustees, be used for the payment of the Current Expenses for Maintenance of the Schools. Library Fund created. Fund may be used to pay current expenses.

Section 2.

All Acts and parts of Acts in conflict herewith are hereby repealed. Repealing clause.

Section 3.

This Act shall be in full force and effect from and after its passage and approval by the Governor. When act takes effect.

Approved Feb'y 14th, 1905.

CHAPTER 15.

"An act Authorizing an Officer of a Corporation to take Oath for and on behalf of his Corporation where the Corporation is Authorized to Act as Trustee, Guardian, Executor, Administrator, or in any Fiduciary Capacity, and an Oath of Office is Required."

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Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Officer of corporation may take oath for corporation.

That in all matters where a corporation is authorized to act as trustee, guardian, executor, administrator or in any fiduciary capacity, and an oath of office is required, it shall be competent for an officer of such corporation to take the required oath for and on behalf of his corporation, and such corporation shall thereby become amenable to the laws relating to individuals in like matters, so far as such laws may be applied to a corporation.

Approved Feb'y 15, 1905.

CHAPTER 16.

"An Act Prohibiting the Employment of Children under Sixteen years of Age, in Underground Mines, and Providing Penalties for the Violation of the Provisions thereof."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Employment of children under sixteen in underground mines.

Any person, corporation, stock company or association of persons, owning or operating any underground mine, or any officer, agent, foreman or boss, having the control or management of employees, or having the power to hire or discharge employees, who shall employ, or knowingly permit to be employed, any child under the age of sixteen years, for work or service in any such mine, or the underground workings thereof, or permit or allow any such child to render or perform any work or service whatever in such mine, whether under contract of employment or otherwise, shall be guilty of a misdemeanor and punishable as hereinafter provided.

Misdemeanor.

Section 2.

Parent, guardian or other person who permits such

Any parent, guardian or other person having the care, custody, or control of any child under the age of

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sixteen years, who shall permit, suffer, or allow such child to work in any mine having underground workings, or who shall permit or allow any such child over whom they may have such care, custody, or control to retain employment in any such mine, or who, after having knowledge that any such child has taken employment in any such mine, or is performing work or service therein, whether under contract of employment or not, shall fail forthwith to notify the person or corporation owning or operating such mine, or some officer, foreman or employee thereof having the power to hire or discharge employees, of the age of such child, shall be guilty of a misdemeanor and punishable as hereinafter provided.

employment guilty of misdemeanor.

Section 3.

Any person or corporation violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not "less than Twenty-five ($25) Dollars nor more than ($500) Five Hundred Dollars, or by imprisonment in the County Jail for a period of not less than thirty days nor more than Six months, or by both such fine and imprisonment."

Penalty.

Section IV.

This Act shall be in full force and effect from and after its passage and approval.

When act takes effect.

Approved Feb'y 15, 1905.

CHAPTER 17.

An Act to Amend Section 541 of the Penal Code of the State of Montana Relating to the Sale of Intoxicating Liquors.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That Section 541 of the Penal Code of the State of Montana be and the same is hereby Amended so as to read as follows:

Section 541 of Penal Code amended.

Sale of intoxicating liquors to drunkard.

Section 541. Every person who sells or gives intoxicating liquors to persons who are in the habit of getting drunk or intoxicated, or of drinking intoxicating liquors to excess, after being notified of such habit or knowing the same, or who sells or gives intoxicating liquors to a minor, or to an Indian, is liable in damages to any person who is injured thereby in money, property, or means of support, and in addition thereto is guilty of a misdemeanor. In a suit for recovering damages named in this Section a married woman may sue in her own name and a minor by a guardian.

Sale to minor or Indian.

Misdemeanor.

Section 2.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 16th, 1905.

CHAPTER 18.

An Act to Provide for the Formation of Cemetery Associations, to Define their Powers and Duties and Provide for their Management and Control.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Formation of Cemetery Associations.

Any number of persons residing in any county in the State of Montana, not less than seven, who desire to form an association for the purpose of procuring and holding lands to be used exclusively for a cemetery or place of burial of the dead, may meet at such time and place as they, or a majority of them, agree upon, and appoint a chairman and secretary by a vote of the majority of the persons present at the meeting, and may proceed to form an association, by agreeing upon a corporate name by which the association shall be known, and by determining upon the number of trus-

Number of trustees.

tees to manage the affairs of the association, which number shall not be less than three, or more than nine; and thereupon they may proceed to elect by ballot the number of trustees so determined upon.

Section 2.

Term of office.

The Chairman and Secretary of such meeting shall, immediately after such election, divide the trustees by lot into three classes; those in the first class to hold their office for one year; those in the second class, two years, and those in the third class, three years; but the trustees of each class may be re-elected if they possess the qualifications hereinafter mentioned; such meeting shall also determine on what day in each year the future annual election of trustees shall be held.

Election.

Section 3.

Certificate.

The chairman and secretary of such meeting shall, within five days after the holding of the same, make a written certificate, which shall state the names of the associates who attended such meeting, the corporate name of the association determined upon by a majority of the persons who met, the number of persons fixed upon to manage the concerns of the association, the names of the trustees chosen at the meeting and their classification, the day of the year fixed upon for the annual election of trustees, and the manner of their election: such certificate shall be signed by the said chairman and secretary, and acknowledged by them before some person authorized to take acknowledgments within the State of Montana, and they shall cause such certificate so acknowledged, to be recorded in the office of the County Clerk & Recorder of the County in which said meeting was held, and a certified copy of such certificate so recorded shall be filed with the Secretary of State of the State of Montana, who shall thereupon issue his certificate therefor without charge.

What to contain.

Secretary of State to issue certificate.

Section 4.

Right to sue and be sued.

Whenever such certificate is duly acknowledged and recorded, and filed as provided in the last section, the

association mentioned therein shall be deemed legally incorporated, and shall have the general powers and privileges of corporations, with the right to sue and be sued and to continue perpetually.

Section 5.

Trustees may enact by-laws.

The trustees of any association incorporated agreeably to the provisions of this act, may enact by-laws for regulating the affairs of such corporation, not inconsistent with the laws of this state.

Section 6.

Vacancies, how filled.

That all vacancies occurring by death or otherwise in the membership of any cemetery association organized under this act, shall be filled by a vote of the surviving or remaining associates named in the certificate of association. All persons so elected to fill any such vacancy shall be entitled to vote at the election of trustees, and be eligible to the office of trustee of said incorporation, and shall have and be entitled to the same rights, powers and privileges as the original associates named in said certificate.

Rights of persons elected to fill vacancies.

Section 7.

Powers of trustees.

The affairs and property of such association shall be managed by the trustees, a majority of whom shall form a board for the transaction of business. The trustees shall annually appoint from among their number a president, vice-president, secretary and treasurer, who shall hold their offices during the pleasure of the board of trustees; and the trustees may require the treasurer to give security for the faithful performance of the duties of his office.

President and other officers.

Treasurer to give bond.

Section 8.

Duties of Secretary.

The Secretary shall perform all the duties of a secretary of a corporation, and shall in addition keep a record of interments, in which he shall enter as correctly and carefully as may be, the name, age, sex, nativity and cause of death, with date of burial of every person interred in such cemetery, which facts he shall procure from such friends or relatives of the deceased, or under-

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taker, as give order for such interment, at the time thereof, or, in case the deceased is a pauper, a stranger or criminal, from the coroner, county physician, overseer of the poor, or other public officer directing the burial of the same.

Section 9.

Such register or record of interment shall be open to the inspection of the public; and the secretary of every cemetery association shall furnish to the health officers of any corporate town, or city or county within the state, when demanded by them, an accurate summary of all the interments during any particular year.

Record open to inspection.

Section 10.

Any secretary who neglects or refuses to carefully keep such register of burials and record all interments therein as herein provided, shall be subject to a fine for such offense, not exceeding twenty-five (25) Dollars.

Secretary subject to fine.

Section 11.

Any association incorporated agreeably to the provisions of this act, may take by purchase or gift, and hold, within the county in which the certificate of their incorporation is recorded, not exceeding one hundred and sixty acres of land, to be held and occupied exclusively for a cemetery for the burial of the dead, and for purposes necessary or proper thereto; such land, or such portion thereof as may from time to time be required for that purpose, shall be surveyed and divided into lots of such size as the trustees may direct, with such avenues, alleys and walks as the said trustees deem proper; and a map of such survey shall be filed and recorded in the office of the County Clerk and Recorder of the county in which the lands lie without any fees therefor. Such association may also take by gift and hold personal property and may sell the same and apply the proceeds thereof to the care, maintenance and embellishment of said cemetery, but for no other purpose, and all real and personal estate which shall have been given or granted to any such association for the maintenance of any monument, the keeping in good order

May take land by purchase or gift.

Map filed with County Clerk & Recorder.

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or the embellishment of any lot or ground situated within the enclosure of such an association, shall remain forever to the uses to which the same shall have been given or granted, according to the true intent of the grantor.

May take personal property by gift.

Section 12.

Trustees may sell lots.

After such map is filed in the office of the County Clerk and Recorder, as aforesaid, the trustees may sell and convey the lots as designated on such map, upon terms, and subject to such conditions and restrictions, to be inserted in or annexed to the conveyances, as the said trustees shall prescribe. Every conveyance of any such lots shall be expressly for burial purposes and no other, and shall be in the corporate name of the association, signed by the president and secretary thereof.

Section 13.

Annual election of trustees.

The annual election for trustees, to supply the place of those whose term of office expires, shall be holden on the day mentioned in the certificate of incorporation, and at such hour and place as the trustees direct. The Trustees chosen at any election after the first shall hold their offices for three years, and until others are chosen to succeed them; such election shall be by ballot, and every person who is the proprietor of a lot in the cemetery of the association, or, if there is more than one proprietor of any such lot, then such one of the proprietors as a majority of the joint proprietors shall designate to represent such lot, or any person who is named as an associate in said certificate, may vote at such election, and the persons receiving the highest number of votes given at such election shall be declared elected trustees.

Term of office.

Section 14.

Trustees chosen from associates.

In all elections after the first, the trustees shall be chosen from among the associates named in said certificate of incorporation, or their successors; and the said trustees shall have the power to fill any vacancy in their number occurring during the term of office for which any trustee was elected. Public notice of every

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annual election shall be given in such manner as the by-laws of the association prescribe. Notice of annual election.

Section 15.

If the annual election is not held on the day fixed in the certificate of corporation, the trustees have the power to appoint another day, not more than sixty days thereafter, and shall give public notice of the time and place, at which time the election may be held with like effect as if holden on the day fixed in said certificate; and the terms of office of the trustees chosen at such election shall expire at the same time they would have done had they been chosen on the day fixed in the said certificate of incorporation. Trustees have power to appoint another day for annual election.

Section 16.

The trustees at each annual meeting shall make a report in writing, containing a statement of their doings and of the affairs of the association, and an account of the receipts and expenditures during the year preceding. Report of trustees.

Section 17.

The proceeds arising from the sale of lots in such cemetery shall be applied to the payment of any debts incurred by said association, in the purchase of cemetery grounds and property, in fencing, improving and embellishing such grounds and avenues leading thereto, and in defraying the necessary expenses in the management and care of the same, and for no other purposes. Proceeds from sale of lots, how applied.

Section 18.

The cemetery lands and property of any association formed pursuant to this act, are exempt from all public taxes and assessments, and not liable to be sold on execution, or applied in payment of debts of any individual proprietors; but the proprietors of lots in such cemetery, their heirs or legal representatives, may hold the same exempt therefrom, so long as the same remain appropriated to the use of a cemetery, and during that time no street or road shall be laid through such cemetery, or any part of the lands held by such association. Exempt from taxation.

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for the purpose aforesaid, without the consent of the trustees of such association.

Section 19.

Lots inalienable after interment therein.

Whenever the lands of any such association are laid out in lots, and such lots or any of them are transferred to individual proprietors, and after there has been an interment in any lot so transferred, such lot from the time of such interment shall forever thereafter be inalienable, and shall upon the death of the proprietor descend to the heirs of such proprietor, forever; but any one or more of such heirs may release to any other of the said heirs his or their interest in the same; a copy of such release shall be filed with the secretary of said association, or with the county clerk and recorder of the county within which said lot shall be situated.

Who may be interred in lots.

The body of any deceased person shall not be interred in such lot unless it is the body of a person having, at the time of such decease, an interest in such lot, or of a relative of some person having such interest, or the wife of such person, or the husband of such person, or the relative of such husband or wife, except by consent of all persons having an interest in such lot.

May release lots to Association.

Provided, that the person or persons who shall be invested with the title to any such lot or lots, or part thereof, may, at any time sell, convey and release any such lots or parts thereof to the Cemetery Association maintaining the Cemetery in which such lots are situate; a copy of the instruments of such conveyance to be filed as above provided in case of releases from one heir to another. And such cemetery association shall have power to use any funds under its control for such purposes, and shall hold and shall have power to convey any such lots or parts thereof to other purchasers in the same manner and with the same effect as it holds and can convey any other of its cemetery lots. But this proviso shall not allow or authorize the conveyance by persons invested with the title thereto, to such association of any piece of ground in which the body of any deceased person

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theretofore there lawfully interred shall actually remain interred at the time of such attempted conveyance.

Section 20.

That any association formed under the provisions of this act, which shall have established and be maintaining a cemetery, may, by a two-third vote of the trustees of such association, which vote may be taken at any regular meeting of such trustees, provide in accordance with the terms of this act, for the establishment of a permanent fund, the income whereof shall be devoted to the care, maintenance and improvement of such cemetery, which fund shall be known as the "Permanent Care and Improvement Fund" of such Cemetery Association.

Establishment of a permanent fund.

Section 21.

Upon such vote the trustees of such association shall proceed to choose by ballot and appoint by deed of the association, a board of trustees of such fund. Such board shall consist of not less than three nor more than five persons, the exact number to rest in the discretion of the said trustees of said association. Such trustees of said fund must be citizens and freeholders of the State of Montana during all the time they exercise the power of such trust. Upon the election, appointment and qualification, as hereinbefore provided, of the said trustees of such fund, all the title to the funds included in said trust, and all the rights, powers, authorities, franchises and trusts whatsoever thereunto appertaining shall at once vest in them; or, in case of the failure of any of those so chosen and appointed, to qualify within thirty days after their appointment, then the same shall vest in the one or more who shall so qualify. In case of the failure of any of those so chosen and appointed so to qualify within such time, the one or more who shall so have qualified shall forthwith fill all vacancies in the said board of trustees of such fund, by choosing and appointing by deed persons to be such trustees upon qualification. And such trustees of the fund shall have power in the same manner to revoke

Trustees of fund.

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any choice and appointment, and to appoint any other person to be such trustee in any case where one chosen and appointed shall fail to qualify as herein provided, within thirty days after appointment. All appointments to fill vacancies and all revocations must be made unanimously.

Section 22.

Term of office.

The tenure of office of the trustees of such fund shall be for life.

Section 23.

Before exercising, holding or having any of the powers, duties, rights, titles, authorities or franchises appertaining to such trust or to such trusteeship, each person chosen to be a trustee of such fund shall give to the cemetery association for which the trust is maintained, a bond in a sum not less than five thousand (5,000) dollars, and at least equal to one-third the amount of the fund at the time of giving such bond, with good and sufficient sureties thereto, who shall justify in the aggregate in at least double the amount of such bond, the same to be conditioned for the due and faithful performance of his trust until July 1st. of the next even numbered year after the year in which such bond shall be given, and until such trustee shall give a new bond as hereinafter provided.

Bond of trustees.

Upon the first day of July in each even numbered year, each trustee shall give a new bond conditioned in the same way, the amount thereof to be determined by the same rule, and with sureties as above provided. Such bonds shall all be approved by a judge of the district court for the judicial district in which the cemetery for which such trust exists, or some part thereof, shall be situate, and shall be filed with the Treasurer of such cemetery association.

Bond to be approved by District Judge.

Any failure so to renew bonds within thirty days after the time hereinbefore provided, shall be a sufficient ground for removal of any trustee within the discretion of competent jurisdiction, upon application of any person interested.

Ground for removal.

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Section 24.

Vacancies, how filled.

In case of the death, resignation, disability or removal of any member or members of such board of trustees of said fund, the survivor or survivors of them shall forthwith choose and appoint a trustee or trustees to fill such vacancy or vacancies, in the same manner as above provided in case of an original vacancy.

Section 25.

Rights, titles, powers, etc., to vest in survivor.

In case of the death, resignation, disability or removal of one or more of the trustees of such fund, all the rights, titles, powers, authorities, franchises and trusts whatsoever existing in such trustee at the time of such death, resignation, disability or removal, shall at once without any further act or conveyance, vest in the survivor or survivors until the vacancy or vacancies so occasioned shall be filled, when the same shall in the same manner vest in the board as so reconstituted.

Newly appointed trustees succeed to equal rights.

All newly appointed trustees shall at once upon qualification, succeed to an equal share in all the rights, titles, powers, authorities, franchises and trusts belonging to such board; and the same shall always be vested in the members of such board as actually constituted.

Section 26.

Titles to vest in District Court.

In case of the death, removal, resignation or disability of all the members of such board, the said rights, titles, interests, authorities, powers, franchises and trusts, until the organization of a new board of trustees, shall vest in the district court in which such cemetery, or the greater part thereof, shall be situate.

Board reconstituted by District Court.

In such case such board of trustees may be reconstituted by the said district court, on application of any person interested, on such notice to other persons interested as such court may order. The trustees so appointed to and accepting such trust shall become vested with all the aforesaid titles, estates, interests, authorities, powers, franchises and trusts belonging thereunto, upon qualification as hereinbefore provided.

In case of any vacancy or vacancies continuing in

the board of trustees of such fund for the period of one year, such vacancy or vacancies may be filled by the said district court in like manner. All trustees appointed by such court under the provisions of this section, shall have all the rights, powers, authorities and franchises as trustees appointed under the other sections of this act. Any owner of an interest in any lot in the cemetery cared for by such trust, and any trustee of the association of such cemetery, and any trustee of the fund, shall be deemed to be sufficiently interested to make any application provided for in this section or in section Twenty-three of this act.

Any person interested may apply to District Court.

Section 27.

All instruments of appointment of trustees of such fund shall be recorded with the secretary of the association establishing the fund.

Appointments to be filed with Secretary.

Section 28.

That from and after the vote to establish such permanent care and improvement fund by the trustees of any cemetery association as provided in section nineteen of this act, the trustees of such cemetery association shall provide by resolution spread upon the minutes of such corporation, for a transfer to said permanent care and improvement fund, (not less than fifteen nor more than forty per. cent.) of the proceeds arising from the sale of cemetery lots by such association, which shall be paid over quarterly upon the first day of January, April, July and October in each year, to the trustees of such fund. If at any time there shall remain in the hands of such association unexpended money over and above all liabilities of the association, the board of trustees of such association may by a two-third vote, appropriate the whole or any portion of such unexpended moneys to such permanent care and improvement fund. Provided, that such fund shall never in any case be allowed to exceed the sum of five thousand (5,000) dollars per. acre of the cemetery thereby to be cared for. And when such sum shall reach

Permanent care and improvement fund, how created.

Fund limited to $5,000.

such an amount all appropriations and payments thereto whatsoever shall cease.

Section 29.

Principal of fund to remain intact.

The principal of such fund shall in all cases remain intact and inviolate. But the trustees of such fund shall on the first of January and first of July in each year, turn over to the treasurer of such association all accrued income arising from such fund, and the receipt of such treasurer therefor shall be a sufficient voucher in the hands of such trustees.

Section 30.

Income of fund to be used for care and maintenance of cemetery.

Such income so paid over shall be used in the discretion of the trustees of such association, solely for the care, maintenance and improvement of such cemetery, its grounds and avenues leading thereto, except as herein provided. In event of any portion of the income so paid over remaining unexpended and unappropriated for one year after its being so paid over to the treasurer of such association, it shall be returned to the trustees of such fund, and become a part of the principal of such fund.

Section 31.

Principal of fund may be invested.

The principal of such fund may be invested in the way in which trust funds are permitted to be invested in the State of Montana, and not otherwise.

Section 32.

Per diem of trustees.

The members of the Board of Trustees of such permanent care and improvement fund shall each receive per. diem compensation of five ($5.00) dollars for each day actually employed in the duties of such trust, but no trustee shall receive more than one hundred ($100.00) as such compensation in any one year. The fees of such members of the board of trustees shall be paid out of the general fund of the cemetery association until such trust fund shall reach one hundred thousand ($100,000.00) dollars, and thereafter the same shall be paid out of the income of such fund.

Limited to $100 per annum Paid out of general fund.

Section 33.

Secretary of Ass'n to act as

The Secretary of the cemetery association shall act

Secretary of Board of Trustees of fund.

as secretary of the board of trustees of such fund, and shall keep a full record of their proceedings.

Section 34.

Trustees to make annual report.

The trustees of such fund shall annually on the first day of January, make their report of the condition of such trust fund to the trustees of the cemetery association. Such reports shall always be kept by the secretary of such association, and be open to the inspection of any person owning an interest in any lot in the cemetery cared for by such fund.

Secretary custodian of reports.

Section 35.

Repealing clause.

That all acts and parts of acts in conflict with this act are hereby repealed.

Section 36.

When act takes effect.

This act shall take effect and be in force from and after its passage and approval.

Approved Feb'y 16, 1905.

CHAPTER 19.

An Act amending Section 577, Chapter IV, Title II, Part IV, Division I, of the Civil Code of the State of Montana,—relating to State Banks, and Providing Penalty for False Statements, Reports or Entries in the Books thereof.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 577, Division 1 of Civil Code amended.

That Section 577, Chapter IV, Title II, Part IV, Division 1 of the Civil Code be amended so as to read as follows:

State Banks, etc., to make quarterly reports to State Examiner.

Section 577. Each State Bank and Banking Corporation, Trust Deposit and Security Corporation, Savings Bank Corporation, or Banking Corporation organized under Article I, Chapter I, Title I, Part IV of the Civil Code of Montana for the transaction of any banking business, shall make to the State Examiner not less than four reports during each year, all at his call, not

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less than two calendar months to intervene between each call, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier, and attested by the signature of at least two of the directors thereof, which said statement must contain a full abstract of the general accounts of the bank, and exhibit in detail under appropriate heads, the resources and liability thereof, so as to plainly show all of the resources and liabilities, and the amount and kind thereof; which said statement shall be transmitted to the State Examiner within five days after the receipt of the request or requisition therefor made by him; and in such condensed form as may be required by the State Examiner, it must be published once in a newspaper of general circulation in the place where such bank is located, or if there be no newspaper of general circulation published in such place, then in one published nearest thereto within the County, and at the expense of the Bank, and such proof of the publication of such statement shall be furnished as may be required by the State Examiner. The State Examiner shall also have power to call for special reports from any particular bank, whenever in his judgment the same are necessary in order to have a full and complete knowledge of its conditions.

Publication of reports.

Special reports

Section 2.

The Directors of each bank may semi-annually, on the first Monday of January and July of each year, declare a dividend of so much of the net profits of the bank as they may deem expedient.

Directors of bank to declare dividend

Section 3.

In addition to the statement required by the preceding section, every such bank shall report to the State Examiner within ten days after declaring any dividend, showing the amount of such dividend and the amount of net earnings in excess of the dividend. Such statement shall be attested as provided for in the attestation of statement by the preceding section.

Shall report dividend to State Examiner.

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Section 4.

Information confidential, except otherwise provided.

The information and showings made by the reports herein contemplated, other than such reports as are required to be published, shall be deemed for the confidential information of the State Bank Examiner's office only, and such information shall not be imparted to any persons who are not officially associated in and with the office of the State Bank Examiner, and such information shall be used by the State Bank Examiner only, in the furtherance of his official duties.

Section 5.

penalty for non-compliance.

If any such bank neglects to make out or transmit the statements and proof of publication thereof required by this Act, it shall be subject to a penalty of Twenty ($20.00) Dollars for each day in default after the periods respectively required by this Act that it may delay to make and transmit any such statement. And should any such bank delay for the period of one month beyond the period when the same is required to be made, to make out and transmit the statements required by this Act, or wilfully violate any provisions of this Act, the Directors shall be personally liable for all debts of such corporation contracted previous to and during the period of such neglect.

Directors personally liable.

Section 6.

Penalty for making false reports.

Every officer or other person authorized by this Act who wilfully and knowingly makes any false statement of facts, statement of account or report, and every officer, agent or clerk of any such bank who wilfully and knowingly makes any false entries in the books of such bank, or knowingly subscribes or exhibits false papers with the intent to deceive any person authorized to examine as to the condition of such bank, and every person authorized by the provisions of this Act to make statements or reports, who wilfully and knowingly subscribes or makes any false statement or report shall be deemed guilty of felony, and upon conviction, subject to imprisonment at hard labor in the State Prison for a term of not less than one nor more than ten years.

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Section 7.

State Examiner to call for report within 60 days.

The State Examiner shall call for a report from every such banking institution under the provisions of this Act within sixty days after its passage and approval.

Section 8.

Repealing clause.

All Acts and parts of Acts in conflict with this Act, are hereby repealed.

Section 9.

When act takes effect.

This Act shall be in full force and effect from and after the date of its passage and approval.

Approved Feb'y 16, 1905.

CHAPTER 20.

An Act to amend Section 4328 of the Political Code of the State of Montana, relating to the Classification of Counties.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 4328 of Political Code amended.

That Section 4328 of the Political Code of the State of Montana be, and the same is hereby amended so as to read as follows: Section 4328. For the purpose of regulating the compensation and salaries of all county officers, not otherwise provided for, and for fixing the penalties of officers' bonds. The several counties of this State shall be classified according to the assessed valuation thereof, as follows:

Counties to be classified according to assessed valuation.

First Class:

All counties having an assessed valuation of thirty million of dollars or over.

Second Class:

All counties having an assessed valuation of more than twenty and less than thirty million of dollars.

Third Class:

All counties having an assessed valuation of more than fifteen and less than twenty million of dollars.

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Fourth Class:

All counties having an assessed valuation of more than eleven and less than fifteen million of dollars.

Fifth Class:

All counties having an assessed valuation of more than eight and less than eleven million of dollars.

Sixth Class.

All counties having an assessed valuation of more than five and less than eight million of dollars.

Seventh Class:

All counties having an assessed valuation of more than three and less than five million of dollars.

Eighth Class.

All counties having an assessed valuation of less than three million of dollars.

Section 2.

Applies to counties created by Ninth Legislative Assembly.

That all counties created by the Ninth Legislative Assembly shall be classified according to the provisions of this Act, and all salaries in such counties shall be governed thereby.

Section 3.

Boards of County Commissioners to classify counties.

The several boards of county commissioners must, at their regular session in September, 1906, make an order designating the class to which such county belongs as determined by the assessed valuation of such county for the year 1906, under the provisions of this Act, and in each even numbered year thereafter; provided that such classification shall not change the government of the county then in existence until the first Monday in January next succeeding.

Section 4.

When act takes effect.

This Act shall take effect and be in force from and after its passage.

Section 5.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved Feb'y 16, 1905.

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CHAPTER 21.

An Act to Detach Meagher County from the Ninth Judicial District and to Annex it to the Tenth Judicial District.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Meagher County added to Tenth Judicial District.

Meagher County is hereby detached from the Ninth Judicial District and added to the Tenth Judicial District, and from and after the date of the passage of this Act, the Tenth Judicial District of the State of Montana shall be composed of the territory within the counties of Fergus and Meagher.

Section 2.

Not to affect present incumbents.

The provisions of this Act shall not work a removal of the Judge of either the Ninth or Tenth Judicial Districts nor of the clerks of the District Court of either Fergus or Meagher Counties, but each of the Judges and Clerks of the said District Courts shall continue to hold office and enjoy the emoluments thereof as before the passage of this Act.

Section 3.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval.

Approved Feb'y 16, 1905.

CHAPTER 22.

An Act Authorizing the County Commissioners of any county to Provide Public Scales at any suitable location in the county; Providing for Capacity thereof, and for the Appointment, Qualification, Duties, Compensation and Removal of Public Weighers, and Fixing Penalty for the Issuance of a False Certificate by any such Public Weigher.

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Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

County Commissioners may establish public scales.

The Board of County Commissioners of any county is hereby authorized, in its discretion, when petitioned by twenty-five or more residents and freeholders of the county, to Establish and Locate Public Scales at any suitable location selected by the County Commissioners within the county.

Section 2.

Capacity.

Such Scales shall be purchased by the county, and be of not less than five tons weighing capacity, and shall be provided with glass or open front which can be observed by the one weighing without dismounting from wagon, and shall be the property of the county, and at all times be under its control and subject to the will of the County Commissioners.

Equipment.

Section 3.

Public Weigher.

The Board of County Commissioners shall appoint at each place where Public Scales are established by them, a Public Weigher, who shall have the custody and care of such property, and who shall give a bond to the county in the sum of $500.00, conditioned for the safe keeping of the same, and for the faithful and impartial discharge of the of the duties incident to his trust in office.

Bond.

Section 4.

Duty of Public Weigher.

It shall be the duty of each Public Weigher to keep a stub record of all weighing done by him, which record and the receipt issued by such Public Weigher shall show for whom property was weighed and the character and kind thereof, and shall constitute prima facie evidence of the facts therein contained; and all such stub records, or other records which the county commissioners may require him to keep, shall at all times be open to public inspection during business hours, between 7:00 A. M. and 6:00 P. M. of any day save and except Sundays and legal holidays, and such Public Weigher shall file a sworn statement with the County

Records open to public inspection.

Recorder of the County, as prescribed by the County Commissioners, thereof, which statement shall show the date and character or kind of property weighed, for whom weighed, and a complete statement of all fees collected.

Section 5.

Compensation.

Such Public Weigher shall receive not to exceed ten cents for each receipt issued by him, and shall be governed by such rules and regulations as may be from time to time prescribed or adopted by the Board of County Commissioners, and he may be removed at any time by such Board.

How removed.

Section 6.

Not to do certain things.

Any Public Weigher, under the provisions of this Act, who shall make any false or fraudulent receipt of any weighing done by him, or shall be guilty of any collusion with any other person or persons for the purpose of deceiving any person or persons in regard to the correctness of weights, or who shall fail to comply with the requirements of the preceding Section, is guilty of a misdemeanor.

Misdemeanor.

Section 7.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 8.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 20, 1905.

CHAPTER 23.

An Act to Determine the Liability of persons or corporations operating Mines, Smelters or Mills in this State for Damages Sustained by Employees thereof, and to declare Void Contracts Restricting Liability.

Be it Enacted by the Legislative Assembly of the State of Montana:

Liability of mining corporations and

Section 1. That every company, corporation, or individual operating any mine, smelter, or mill for the

others for personal injuries to employees.

refining of ores shall be liable for any damages sustained by any employees thereof within this State, without contributing negligence on his part, when such damage is caused by the negligence of any superintendent, foreman, shift-boss, hoisting, or other engineer, or crane men.

Contract of insurance no bar to action.

Section 2. No contract of insurance, relief, benefit, or indemnity in case of injury or death, nor any other contract entered into before the injury, between the person injured and any of the employers named in this Act shall constitute any bar or defense to any cause of action brought under the provision of this Act.

Right of action survives.

Section 3. In case of the death of any such employees in consequence of any injury or damages so sustained, the right of action shall survive and may be prosecuted and maintained by its heirs, or personal representatives.

Repealing clause.

Section 4. All Acts and parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 5. This Act shall take effect and be in full force from and after its passage and approval by the Governor.

Approved Feb'y 20, 1905.

CHAPTER 24.

An Act to Punish Interferences, and Attempted Interferences with railroad property, and the causing of death thereby; and to Repeal Section 1030, of Chapter 13, of Title 13, of Part 1, of the Penal Code of Montana.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Every person who, within the State of Montana, wilfully and maliciously either,

Certain acts prohibited.

a. Burns, breaks, cuts, derails, destroys, displaces, injures, obstructs, removes or places any explosive substance upon, in or under, any track, switch, bridge,

culvert, viaduct, road-bed, embankment, reservoir, water-tank, stand-pipe or appurtenances, station or section house, coal dock, passenger, mail, baggage, express or freight car, caboose, engine, tender or other rolling stock, or other appliance, part, structure or fixture, attached to, or used in connection with, any operated railway, or any branch thereof, lying wholly or partially within this State, whether operated by steam or other motive power; or by letter or other writing, threatens to do, any of the foregoing acts or things; or

b. Wrecks, whether by the use of dynamite or other explosive, or any other means, any moving train, engine, cars or other rolling stock of any such railroad or branch; or

c. By intimidating any member of a train or engine crew, or any passenger, or otherwise stops, holds up, or interrupts the journey of any such train, engine, cars or rolling stock, of any such railway, or branch thereof, for the purpose of gaining from any person, by any means, any money or other thing of value; shall be deemed guilty of felony, and on conviction be punished by imprisonment in the State Prison, for a term not less than five years, and which may extend to the term of his natural life.

Felony.

Penalty.

Section 2.

Any person who wilfully and maliciously attempts to commit any of the acts in Section I of this Act enumerated, shall be deemed guilty of a felony, and punished by imprisonment in the State Prison for not less than one year nor more than ten years.

Penalty for commission of acts enumerated in Section 1.

Section 3.

If in the commission, or attempt to commit, any of the acts made felonies under Section 1 of this Act, the death of any person shall be caused, the person so committing, or attempting to commit said acts or any thereof, shall be deemed guilty of murder in the first degree; and, on conviction thereof, shall suffer death.

Death penalty inflicted.

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Section 4.

Not retroactive.

Any act heretofore done of the general nature of any of the acts hereinabove enumerated, which were at the time of their commission, punishable as a crime, under any then existing law of this state, may still be prosecuted and punished under such pre-existing law.

Section 5.

Section 1030 of Penal Code repealed.

Section 1030 of the Penal Code of Montana is, subject to the Provisions of Section 4 of this Act, hereby repealed.

Section 6.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 18, 1905.

CHAPTER 25.

An Act Amending Section 3695 of the Political Code of the State of Montana, Relating to Taxation of Private Bankers, Brokers or Dealers in Stock.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1:

Section 3695, Political Code, amended.

That Section 3695, Part III, Title X, Chapter III, of the Political Code of the State of Montana be, and the same is, hereby Amended so as to read as follows:

Relating to banks, broker or dealer in stocks.

Section 3695: Every Private Banker, Broker or Dealer in Stocks must make out and deliver to the assessor, when required to list personal property, a verified statement containing:

First: The amount of money on hand, or in transit.

Second: The amount of funds in the hands of other banks, brokers or others subject to draft.

Third: The amount of checks or cash items, the amount thereof not being included in either of the preceding items.

Fourth: The amount of bonds and stocks of every kind, (except United States bonds) and shares of cap-

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ital stock of joint or other companies or corporations held as an investment, or in any way representing assets.

Fifth: All other property appertaining to said business other than real estate, which real estate must be listed and assessed as other real estate is listed and assessed under this Title.

Sixth: The amount of all deposits made by other persons in his custody.

Seventh: The amount of all accounts payable other than current deposit accounts.

Eighth: The amount of capital invested in said company.

Ninth: The amount of surplus or undivided profits.

How tax list made up.

In making up the tax list of the property of such Private Banker, Broker or Dealer in Stocks for taxation, such property to be taxed shall be the amount of capital invested either in real estate or cash, the amount of surplus, and undivided profits.

Section 2.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3.

When act takes effect.

This Act shall take effect and be in force from and after its passage and approval by the Governor.

Note by the Secretary of State:

The foregoing Act having been presented to the Governor for his approval and not having been returned by him to the House in which it originated within the time prescribed by the Constitution, has become a law without his approval.

A. N. YODER,
Secretary of State.

Filed Feb'y 21, 1905.

CHAPTER 26.

"An Act to compel railways to maintain facilities for shipment and delivery of freight and passengers wherever there is a platted townsite of record upon

the line of such railway having not less than one hundred inhabitants, and providing a penalty for the violation of this Act."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Duty of railroad corporations with reference to delivery of freight.

It is hereby made the duty of every person, corporation and association operating a railroad in the State of Montana to maintain facilities for shipment and delivery of freight, and to ship and deliver freight and accommodate passengers at any point upon the line of such railway where there is a platted townsite of record having not less than one hundred inhabitants.

Section 2.

Shall comply with provisions of act.

Any such person, corporation or association which shall within sixty days after written request of not less than fifty inhabitants of such platted townsite fail to comply with the provisions of this Act, shall upon conviction be fined not less than ten dollars nor more than one hundred dollars for each day thereafter, so long as the provisions of this Act are not complied with.

Penalty.

Section 3.

When act takes effect.

This Act shall be in full force and effect on and after its passage and approval.

Note by the Secretary of State:

Became law without approval of Governor.

The foregoing act having been presented to the Governor for his approval, and not having been returned by him to the House in which it originated within the time prescribed by the Constitution, has become a law without his approval.

A. N. YODER,
Secretary of State.

Filed February 21st, 1905, at 9 o'clock a. m.

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CHAPTER 27.

An Act to Authorize Cities and Towns to Create Special Improvement Districts, and to Levy Special Assessments upon the Property of such Districts, for the purpose of Defraying the cost of Construction or Acquiring a System of Water Works, and Laying Extensions to Water Mains.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section I.

Whenever the council of any city or town desires to construct or acquire a system of water works or to lay extensions to water mains, it may create a Special Improvement District in the manner hereinafter provided, and may enact by ordinance that such portion of the cost of constructing or acquiring such water system or the making of such extensions of water mains within such Special Improvement District thus created as shall be determined by the council, shall be paid by the entire District, each lot or parcel of land within said District to be assessed for that part of the whole cost, which its area bears to the area of the entire District, exclusive of streets, alleys and public places; provided, however, that the whole cost so assessed shall at no time exceed the sum of One Dollar and Fifty Cents ($1.50) per linear foot of the entire length of the water mains, laid in such District.

City Council may create special improvement districts.

Expense of improvements, how paid.

Cost limited.

Section II.

Whenever it is desired to create a Special Improvement District for the purpose provided in this Act, the council by resolution shall designate the number of such District, the boundaries thereof, and state the approximate estimate of the cost of constructing or acquiring the proposed improvement, also the time when the council will hear objections and the portion of the cost, which it is proposed to have paid by special assessment. Such resolution shall be published in a daily newspaper in the city or town, for at least five days

Council to designate boundaries, etc.

Resolution to be published.

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or in a weekly paper in one issue not less than five days before the date set for hearing objections to the final adoption of the same. Any person or persons who are the owners or agents of any lot or parcel of land within such Improvement District shall have the right to appear at said meeting either in person or by counsel and show cause, if any there be, why the improvements mentioned therein shall not be made; if at such meeting, objections are made to the making of such improvement by owners or agents representing more than one-half in area of all the property which would be assessed to defray the cost of said improvement, the improvement shall not be made at that time, and at no time during a period of six months thereafter, but after the expiration of six months a resolution providing for a similar improvement and covering the same territory may be considered, after giving the same notice and taking the same proceedings as provided for in the consideration of the original resolution. If the owners or agents of property to the extent herein mentioned fail to make objections, a majority of all the members of the council voting in the affirmative will finally adopt the resolution.

Person interested may show cause why improvements should not be made.

Majority vote necessary to adopt.

Section III.

All that portion of the cost and expense incurred in acquiring or constructing such water supply system or making such extension, which the council intends shall be defrayed by special assessments, shall be paid by special improvement warrants, drawn against a Special Improvement District Fund, and each Special Improvement District shall be a special fund. Said warrants shall draw simple interest at the rate of six (6%) per cent per annum from the date of registration, and the said city or town council may provide that said special assessments may be paid in equal annual installments, extending over a period of not less than three nor more than ten years.

Special improvement warrants.

Warrants to bear interest.

Sec. IV.

The council shall levy, assess and collect the special

assessments herein provided for in the manner provided for the levy, assessment and collection of other special assessments now provided for under the laws of the State of Montana, and all laws now in force, having a reference to the levy, assessment and collection of special assessments, which may be applicable to the levy, assessment and collection of the special assessment herein provided for. How special assessments levied and collected.

Section 5.

Nothing in this Act shall be considered as repealing any law now in existence upon the same subject, but the authority granted herein shall be construed as additional to powers already granted by law to cities and towns. Additional power granted to cities and towns.

Section 6.

This Act shall be in full force and effect from and after its passage and approval by the Governor. When act takes effect.

Approved Feb'y 21, 1905.

CHAPTER 28.

An Act amending Sections 1961 of the Political Code of the State of Montana, relating to Issuance of School Bonds.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That Section 1961, Part III, Title III, Chapter VI, of the Political Code of the State of Montana be and the same is hereby amended so as to read as follows: Section 1961 of Political Code amended.

Section 1961.

The Board of School Trustees of any school district within Montana, shall, whenever a majority of the School Trustees so decide, submit to the electors of the district the question whether the Board shall be authorized to issue coupon bonds to a certain amount, not to exceed three per cent, of the taxable property in said district; provided, that nothing herein contained shall authorize the issuance of bonds to an amount exceed- Board of school trustees may submit to electors question whether coupon bonds shall issue for purpose of building and furnishing schoolhouses, etc.

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ing Five Hundred Thousand Dollars in any one school district, and bearing a certain rate of interest not exceeding six per centum per annum and payable and redeemable at a certain time, for the purpose of building and furnishing one or more school houses in said district, and purchasing land necessary for the same. Should the trustees of any school district in which bonds have been heretofore issued to any amount, desire to submit to the electors of the districts the question as to whether additional bonds shall be issued they may do so, but no such bonds shall be issued unless a majority of all the votes cast at any such election shall be cast in favor of such issue of additional bonds; and in no case shall the whole issue of bonds exceed in amount three per centum of the taxable property within such school district. This Act shall not apply to an Act entitled "An Act to authorize the School Trustees of the School District Number One, of Deer Lodge County, to issue additional bonds for certain purposes," approved February 13th, 1885.

Additional bonds may be voted.

Not to apply to act approved February 13, 1885.

Section 2.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

When act takes effect.

Approved Feb'y 21, 1905.

CHAPTER 29.

An Act to Amend Sections 950 and 953, Title VIII, Chapter III, Part IV, Division I, of the Civil Code of the State of Montana, Relating to the Liability of Railway Companies for the Killing or Injuring of Livestock.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 950, Title VIII, Chapter III, Part IV, Division I, of the Civil Code of the State of Montana be, and the same is hereby amended to read as follows:

Section 950 of Civil Code amended.

Railroad corporation to maintain fence and cattle guards.

Section 950. Railroad Corporations must make and maintain a good and legal fence on either or both sides of their track and property, and maintain at all crossings cattle-guards over which cattle or other domestic animals cannot pass. In case they do not make and maintain such fence and guards, if their engines or cars shall kill or maim any cattle or other domestic animals upon their line of road, they must pay to the owner of such cattle or other domestic animals, in all cases, a fair market price for the same, unless it occurred through the neglect or fault of the owner of the animal so killed or maimed.

Must pay market price for animals killed or maimed.

Section 953 of Civil Code amended.

Section 2. That Section 953, Title VIII, Chapter II, Part IV, Division I, of the Civil Code of the State of Montana be, and the same is hereby amended to read as follows:

Must designate station in each county where record of animals killed or maimed shall be kept.

Section 953. It shall be the duty of any corporation, association, company, person or persons owning, controlling or operating any railroad, or branch thereof, in this state, to designate some station on the line of the same, in each county through which it passes, at which it shall keep a suitable book, and within thirty days after the killing or injuring of any animal or animals, to cause to be entered therein the date when, and the place where the same were killed or injured, as near as may be, together with a description thereof, including the age, color and sex of the same, and marks and brands upon the same as near as the same can be done, which said book shall be kept for the inspection of any person or persons claiming to be interested in the inspection thereof, and shall cause a notice of the station so designated to be filed with the county clerk of the county in which said station is situated; Provided, that when such railroad or branch thereof shall run to or through any town or station at which is located the county seat of any county, then such book shall be kept at such town or station at which said county seat is located, and the affidavit provided for by Section 955 of this Code as amended by an Act en-

What record to contain.

titled "An Act to amend Section 955 of Chapter III, Title VIII, Part IV, Division I, of the Civil Code of Montana relating to livestock killed or injured and to add to said Chapter a Section to be known as Section 955," approved March 6th, 1903, may be served on the agent of such station.

Repealing clause.

Section 3. All Acts and parts of Acts in conflict with this Act are hereby repealed.

When act takes effect.

Section 4. This Act shall take effect and be in force from and after its passage and approval by the Governor.

Approved Feb'y 21, 1905.

CHAPTER 30.

An Act to Provide for the Extension of the Boundaries of any Incorporated City or Town so as to Embrace and Include Contiguous Platted Tracts or Parcels of Land, and Repealing Section 4726 of the Political Code of Montana.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Tracts of land contiguous to any incorporated city or town may be embraced within corporate limits thereof.

That any Tracts or Parcels of Land, which have been, or may hereafter be, platted into lots or blocks, streets and alleys, and the map or plat thereof filed in the office of the County Clerk and Recorder of the County in which the same is situated, and shall be contiguous to any Incorporated City or Town, may be embraced within the corporate limits thereof, and the boundaries of such city or town extended so as to include the same in the following manner: When in the judgment of any city or town council, expressed by resolution duly and regularly passed and adopted, it will be to the best interest of such city or town, and the inhabitants thereof, and of the inhabitants of any contiguous platted tracts or parcels of land, as aforesaid, that the boundaries of such city or town shall be extended, so as to include the same within the cor-

Proceedings to annex such contiguous lands.

porate limits thereof, the city or town clerk of such city or town shall forthwith cause to be published in the newspaper, published nearest such platted tracts or parcels of land, at least once a week for two successive weeks, a notice which shall be to the effect that such resolution has been duly and regularly passed, and that for a period of twenty days after the first publication of such notice, such city or town clerk will receive expressions of approval or disapproval, in writing, of the proposed extension of the boundaries of such city or town, from resident freeholders of the territory proposed to be embraced therein.

City or town council to pass resolution.

The clerk shall, at the next regular meeting of the city or town council, after the expiration of said twenty days, lay before the same, all communications in writing by him so received for its consideration, and if, after considering the same, such council shall duly and regularly pass and adopt a resolution to that effect, the boundaries of such city or town shall be extended so as to embrace and include such platted tracts or parcels of land, the time when the same shall go into effect to be fixed by such resolution; provided, that such resolution shall not be adopted by such council if disapproved by a majority of the resident freeholders of the territory proposed to be embraced.

Section 2.

Section 4726 of Political Code repealed.

Section 4726 of the Political Code of Montana and all Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 21, 1905.

CHAPTER 31.

An Act to Provide that the National Flag be unfurled, displayed and kept floating upon the State Capitol Building, and to Authorize and Direct the Secretary

of State to have erected a suitable Flagstaff and Provide Suitable Flags therefor, and to Provide for the Payment of the necessary Expenses incident thereto.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

National flag on capitol building.

That the National Flag shall be kept unfurled, displayed and floating upon the State Capitol Building from 8 o'clock A. M. to 4 o'clock P. M. of each and every day of the year, excepting Sunday; provided, that the Flag shall not be so unfurled or displayed or allowed to remain floating when by reason of violent wind or other inclemency of the weather there is danger of destruction of, or material injury to, such Flag.

Section 2.

Secretary of State to have erected flagstaff.

That for the purpose of carrying out the Provisions of this Act the Secretary of State is hereby authorized and directed to have erected on the State Capitol building a suitable Flagstaff of proper dimensions and to provide the necessary flag or flags of proper dimensions and suitable material, and to cause the said Flag to be unfurled, displayed and kept floating as above provided.

Section 3.

Expenses paid out of money appropriated for maintenance of capitol building and grounds.

That the necessary expenses incident to the carrying out of this Act shall be paid out of such moneys as shall be appropriated for the maintenance of the Capitol Building and grounds.

Section 4.

Repealing clause.

All Acts and parts of Acts in conflict with the Provisions of this Act are hereby repealed.

Section 5.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 21, 1905.

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CHAPTER 32.

An Act to Amend Sections 552, 553, 560, 563, 566 and 567 of Article 15, of Chapter 3, of Title 1, of Part 3, of the Political Code of the State of Montana, Relating to the Inspector of Boilers, and to add thereto a new Section to be known and numbered Section 570.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 552 of the Political Code be, and the same is hereby amended so as to read as follows:

Section 552 of Political Code amended.

Section 552. There shall be two Assistant Inspectors of Boilers, each of whom shall be called Assistant Inspector of Boilers. Such Assistant Inspectors must be persons who have had at least four years' practical experience in the operation of steam engines and boilers and must be persons of temperate habits and good character and qualified to perform the duties of their office. They shall be appointed by the Governor, by and with the advice and consent of the Senate, and be subject to removal at the will of the Governor. The salary of each Assistant Inspector shall be $1800.00 per year. Each Assistant Inspector must execute an official bond in the sum of $2500.00.

Two assistant inspectors of boilers.

Qualifications.

Salary.

Bond.

Section 2. That Section 553 of the Political Code be, and the same is hereby amended so as to read as follows:

Section 553 of Political Code amended.

Section 553. The Inspector of Boilers must have his office at the seat of government, and must adopt rules as nearly uniform as possible for the inspection of steam boilers, and prescribe the nature and extent of the examination of applicants for licenses and adopt such rules for the issuing thereof as are required by the provisions of this Article, and must adopt such rules as he may deem necessary to carry into effect the provisions of this Article, and distribute copies of such rules among the engineers, superintendents of mines and mining companies of the state, and all persons having charge or control of steam machinery.

Office of Inspector of Boilers.

Rules with reference to inspection of boilers and examination of applicants for license.

Distribute copies of rules

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Section 560 of Political Code amended.

Section 3. That Section 560 of the Political Code be, and the same is hereby amended so as to read as follows:

Engineers divided into three classes.

Section 560. Engineers entrusted with the care and management of steam machinery as specified in Section 559, must be divided into three classes, namely: First class engineers, Second class engineers, and Third class engineers. No license must be granted to any person to perform the duties of first class engineer who has

Qualifications of first class engineer.

not taken and subscribed an oath that he has had at least three years' experience in the operation of steam boilers and steam machinery, or whose knowledge and experience is not such as to justify the belief that he is competent to take charge of all classes of steam boilers and steam machinery. No license must be granted

Qualifications of second class engineer

to any person to act as second class engineer who has not taken and subscribed an oath that he has had at least two years' experience in the operation of steam boilers and steam machinery, and is, on examination, found competent to take charge of all classes of steam boilers and steam machinery, not exceeding one hundred horse power. No license must be granted to any

Qualifications of third class engineer.

person to act as third class engineer, who has not served at least one year as fireman under a competent engineer and found upon examination to be sufficiently acquainted with the duties of an engineer to be entrusted with steam boilers and steam machinery, not exceeding

Firemen to pass examination.

twenty horse power. All firemen who have charge of steam boilers as to the regulation of feed, water and fuel, where the boilers are so situated as not at all times to be under the eye of the engineer in charge, are required to pass a third class engineer's examination and procure the same kind of license. Engineers not holding licenses of any of the above classes and who are

Examination for traction license.

entrusted with the care and management of traction engines or engines or boilers on wheels, other than locomotives, are required to pass an examination as to their competency to operate such class of machinery and to procure a license to be known as a Traction License.

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Such Traction License shall not entitle the holder thereof to operate any other class of steam machinery specified in Section 559. No license shall be granted to any person to act as traction engineer who is not found, upon examination, to be sufficiently acquainted with the duties of a Traction Engineer to be entrusted with the care of traction engines.

Section 563 of Political Code amended.

Section 4. That Section 563 of the Political Code be, and the same is hereby amended so as to read as follows:

Fees for inspection of boilers and traction engines.

Section 563. The Inspector or Assistant Inspectors are authorized to charge a fee of ten dollars for the inspection of each single boiler and its steam connections, and five dollars for each additional boiler when connected. The fee for the inspection of each traction engine or boiler on wheels shall be ten dollars. The fee for the inspection of boilers in incorporated cities shall be five dollars. Such fees shall be payable at the time of the delivery of the inspector's certificate of inspection. The fee for the examination of applicants for engineer's licenses is $7.50 for first class engineers, $5.00 for second class engineers, $3.00 for third class engineers and $3.00 for traction engineers; to be paid at the time of the application for license. In case of the failure of any applicant to pass a successful examination ninety days must elapse before he can again be examined as an applicant for license in the class for which he was examined. But the Inspector may grant to the applicant a lower grade of license than that applied for upon such examination. All certificates of inspection and engineer's licenses must be displayed in a conspicuous place in the engine room.

Fees for examination of applicants.

Certificates and licenses to be displayed in conspicuous place

Section 566 of Political Code amended.

Section 5. That Section 566 of the Political Code be, and the same is hereby amended so as to read as follows:

Locomotives and boilers in residences exempted from operation of this Article.

Section 566. This Article does not apply to locomotives in Montana, nor to boilers used for heating purposes in private residences, nor to any boiler having a capacity of only five horse power or less; nor are loco-

motive engineers or persons operating any of the engines or boilers herein exempted from the operation of this Article, required to procure licenses from the Inspector or Assistant Inspectors. It shall be the duty of the owner or user of any traction engine or boiler on wheels, other than locomotives, to notify the Inspector of the location of such boiler on or before the first day of June in each year. Any owner or user of such engine or boiler failing to so notify the Inspector shall be punished by a fine or not less than twenty-five dollars nor more than one hundred dollars.

Owner to notify inspector.

Penalty for failure to notify inspector.

Section 567 of Political Code amended.

Section 6. That Section 567 of the Political Code be, and the same is hereby amended so as to read as follows:

Renewal of certificate.

Fee for renewal.

Moneys paid to State Treasurer.

Inspector must make annual report.

What report to contain.

Section 567. All certificates of license to engineers of all classes shall be renewed yearly. The fee for renewal is $1.00 in all cases. Any engineer failing to renew his license as herein provided, or within at least thirty days thereafter, must forward this fee for an original license of the same grade before license can be re-issued. All moneys collected by virtue of this Article must be paid in to the State Treasury at least as often as once in each month. The Inspector of Boilers must make an annual report to the Governor on the tenth day of December of each year, setting forth the moneys collected by himself and the Assistant Inspectors from any and all sources, and the disbursements, and the number of boilers inspected by them, and the number and grades of licenses issued by them and to whom, and the general results and experiences of his office, and such recommendations as to him may seem fit and proper. Said report must also refer to and account for the causes of any boiler explosions which may have occurred in the State during the year, and the loss of life or property resulting therefrom.

Section 570 added.

Section 7. There is hereby added to Article 15, of Chapter 3, of Title 1, of Part 3, of the Political Code a Section to be numbered Section 570, and which shall read as follows:

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Penalty for offering boiler for sale, etc., which has not been inspected

Section 570. Any person who offers for sale within this State a boiler subject to the provisions of this Article, which has been in use and is out of service, or who brings into the state and places in service any such boiler which has theretofore been in use in any other state, without first notifying the Boiler Inspector, and having such boiler inspected, and securing from the Inspector a certificate of such inspection, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars for each offense.

Repealing clause.

Section 8. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

When act takes effect.

Section 9. This Act shall take effect and be in full force from and after its passage and approval by the Governor.

Approved Feb'y 21, 1905.

CHAPTER 33.

An Act to Add to Part III, Title V, Chapter IV, Article IV, of the Political Code of the State of Montana, Relating to the Soldiers' Home, an Additional Section to be Designated Section 2532, Relating to the Appointment of a Chaplain and Providing for his Compensation and Payment.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 2532 added to Part III, Title V, Chapter IV, Article IV, of Political Code.

There shall be added to Part III, Title V, Chapter IV, Article IV of the Political Code of the State of Montana, Relating to the Soldiers Home, an Additional Section to be designated Section 2532, which shall read as follows:

Chaplain for Soldiers' Home.

Section 2532. The Board of Managers shall select and appoint a Chaplain for the Soldiers Home, who must be a regularly ordained minister of the gospel, and who shall hold divine services at the Soldiers Home at least twice a month, and who shall also conduct the burial service upon the death of any of the inmates of

Qualifications and duties of chaplain.

Compensation.

the Home, whenever the same does not conflict with his other engagements. He shall receive as compensation for such services a salary of not less than five dollars per month nor more than ten dollars per month, to be determined by the Board of Managers, which salary shall be paid out of the general appropriation fund for the maintenance of such Home.

Section 2.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 25th, 1905.

CHAPTER 34.

An Act to amend Section 3848 of the Civil Code of Montana, relating to the Satisfaction of Mortgages."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 3848 of Civil Code amended.

That Section 3848 of the Civil Code of Montana be amended to read as follows:

Liability of mortgagee for refusal to discharge mortgage.

Section 3848. Any mortgagee or his personal representative or assignee, as the case may be, after the full performance of the conditions of the mortgage, whether before or after a breach thereof, who shall, for the space of seven days after being requested, refuse or neglect to execute and acknowledge a certificate of discharge or release thereof, shall be liable to the mortgagor, his heirs or assigns, in the sum of One Hundred ($100.00) Dollars; and also, for all actual damages occasioned by such neglect or refusal.

What discharge shall contain when made by persons other than mortgagee.

When such discharge or release is made by the personal representative of the mortgagee, it shall be accompanied by a certified copy of his authority, unless such authority is already of record in the office of the County Clerk and Recorder where such mortgage is

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recorded. In case such discharge or release is made by an assignee, it must be accompanied by the assignment of such mortgage, unless such assignment is already of record in the office of the County Clerk and Recorder where such mortgage is recorded. In the event that such discharge or release is executed by an attorney in fact, such discharge or release shall have attached to it the Power of Attorney under which it is made, unless such Power of Attorney is already of record in the office of the County Clerk and Recorder where such mortgage is recorded. When such discharge or release is executed by the heir or heirs of the mortgagee, such discharge or release must be accompanied by a certified copy of an order or decree of a court of competent jurisdiction showing such authority, unless such order or decree is already of record in the office of the County Clerk and Recorder where such mortgage is recorded.

What to contain when made by foreign administrators and executors.

Foreign administrators and executors may satisfy mortgages of record in Montana, provided, that the satisfaction of mortgages be accompanied by an authenticated copy of their letters of administration, or letters testamentary, with the certificate of the Clerk of the Court in which the appointment was made that the same have not been revoked and are in full force, which certificate and certified copy of letters shall be presented and recorded in connection with the satisfaction of the mortgage. When so presented and recorded, they shall have the same force and effect as if the mortgage were satisfied by the mortgagee.

Section 2.

Repealing clause.

All Acts or parts of Acts in conflict with this Act are hereby repealed.

Section 3.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 25, 1905.

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CHAPTER 35.

An Act to amend Section 1091 of the Penal Code of the State of Montana, relating to cruelty to animals.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 1091 of Penal Code amended.

That Section 1091 of the Penal Code of the State of Montana be amended so as to read as follows:

Abandoning animal a misdemeanor.

Section 1091. Every person being the owner, or in possession or having charge or custody of a maimed, diseased or infirm animal, who abandons and leaves such animal to die in the street, highway or public place, is guilty of a misdemeanor and such animal may be killed by any sheriff or peace officer in a humane manner, and the owner shall be liable for the necessary care of such animal while living and for the cost of disposing of the carcass.

Liability of owner.

Section 2.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 25th, 1905.

CHAPTER 36.

An Act Making it a Misdemeanor to give False Information to a Newspaper or other Publication; to Provide for its Enforcement, and a Penalty for its Violation.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Person who procures publication of false or libelous statement guilty of misdemeanor.

Any person who wilfully states, delivers or transmits by any means whatsoever, to the manager, editor, publisher or reporter of any newspaper, magazine, publication, periodical, or serial, for publication therein,

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any false or libelous statement concerning any person or corporation, and thereby secures the actual publication of the same, is hereby declared guilty of a misdemeanor, and upon conviction shall be sentenced to pay a fine not exceeding Five Hundred Dollars, or confined in the county jail not exceeding six months, or both. Penalty.

Section 2.

All Acts and parts of Acts in conflict with this Act are hereby repealed. Repealing clause.

Section 3.

This Act shall take effect and be in full force from and after its passage and approval by the Governor. When act takes effect.

Approved Feb'y 25th, 1905.

CHAPTER 37.

"An Act to define lawful fences, and to repeal Section 3250 of the Political Code, and an Act approved March 16th, 1901, entitled, 'An Act to amend Section 3250, Chapter XIII, Title VII, Part III, of the Political Code of the State of Montana.'"

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. The following fences only are legal, and they must not be less than four-feet-four-inches in height.

1. All fences constructed of at least one strong pole, rail or board, and three of either wires, or strong poles, rails, or boards, or both, so that there be three altogether thereunder, which lower three, whether all wires, or poles, rails or boards and wires, may be arranged at the pleasure of the builder; but all must be fastened firmly, as nearly equidistant as possible to substantial posts firmly set in the ground, not more than twenty feet apart, or set to well-supported, substantial leaning posts not more than twenty feet apart. But the lower pole, rail, board or wire, must not be more than one foot and a half above the ground. What fences are legal.

2. All fences constructed of at least four horizontal wires each, if cabled, to consist of not less than two What fences are legal.

wires, of at least number twelve guage; or, if plain, of not less than a number nine guage, the lowest of which must not be more than one foot and a half above the ground, securely fastened, as nearly equidistant as possible to substantial posts, firmly set in the ground, or to well supported substantial leaning posts, not exceeding thirty-two feet apart, with pickets of wood or wire, interwoven in or fastened to said wires, between each two of said posts, in such manner that there must not be more than five and one-half feet space between such pickets and posts or nearest pickets; the pickets, if of wire, to be of not less than number eight gauge.

What fences are legal.

3. All substantial worm fences and stone walls.

What fences are legal.

4. All rivers, hedges, mountain ridges and bluffs or other barrier, over or through which it is impossible for stock to pass. But none of the fences hereinbefore described are legal for stock-yards, or places where either grain, hay or straw is kept; but such places must be inclosed by a fence at least six feet high, constructed of one strong pole, board or rail, with at least five strong rails, poles, or boards or barbed wire thereunder, securely fastened, as nearly equidistant apart as possible, to substantial posts firmly set in the ground, not more than fourteen feet apart; provided, that where wire is used in stock-yards, smooth wire only, and not barbed wire, shall be used.

Legal enclosure for stock-yards, etc.

Legal enclosure for stock-yards, etc.

5. All fences constructed of any standard woven wire field fencing, not less than four-feet-four-inches in height, securely fastened to substantial posts, set at a distance not exceeding thirty-five feet apart.

Repealing clause.

Section 2. Section 3250 of the Political Code, and an Act entitled, "An Act to amend Section 3250, Chapter XIII, Title VII, Part III, of the Political Code of the State of Montana, approved March 16th, 1901, and all acts and parts of acts in conflict with this act are hereby repealed; provided, that nothing herein contained shall operate to make unlawful, any fence which conformed to the existing law at the time it was built.

Act not retroactive.

Approved Feb'y 27, 1905.

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CHAPTER 38.

An Act to Amend Section 3001, of the Political Code of Montana, Relating to the Duties and Powers of the State Veterinary Surgeon.

Be it Enacted by the Legislative Assembly of the State of Montana.

Section 1.

That Section 3001 of the Political Code be amended to read as follows:

Section 3001 of Political Code amended.

The duties of the State Veterinary Surgeon are:

1.

To investigate all cases of infectious or contagious diseases among cattle, horses, mules, asses, sheep, goats, swine, and all other domestic animals in this State, of which he may have a knowledge, or which may be brought to his notice, and in the absence of specific information, to make visits of inspection to any locality, where he may have reason to suspect that there is any infectious or contagious disease.

Duties of State Veterinarian.

2.

To inspect, under the regulations of this Article, all such animals which may be brought into this State, in any manner whatever, from or through such state or territory or foreign country, as the Governor may declare, by proclamation, must be held in quarantine, for the purpose of inspection.

Duties of State Veterinarian.

3.

To inspect, under the regulations of this Article, all such animals in this State, or that may be brought into this State, in any manner whatever, from any other State, territory or foreign country.

Duties of State Veterinarian.

4.

To quarantine any premises, in which animals affected with any infectious or contagious disease are, or have been kept, and to quarantine such animals, which are affected with, or have been exposed to any infectious or contagious disease, and to define the limits within which they must be kept, the time they shall be

Duties of State Veterinarian.

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detained, and the conditions on which they shall be released therefrom.

5.

Authority to enter enclosure, etc.

For the purpose of making such inspection, or performing any of his duties, he has authority to enter any enclosure, corral, car, shed, barn, stable or other building, in which animals are, or have been kept.

Approved Feb'y 27, 1905.

CHAPTER 39.

"An Act to amend Section 717, Part 1, Title X, Chapter XI, of the Penal Code of the State of Montana, relating to the Sale of Intoxicating Beverages, on the Line of any Railroad Grade, Logging-camp, Saw-mill, Sheep-shearing Camp, Irrigation Ditch or canal in the Course of Construction."

Be it Enacted by the Legislative Assembly of the State of Montana.

Section 717 of Penal Code amended.

Section 1. That Section 717, Part 1, Title X, Chapter XI, of the Penal Code of the State of Montana, be, and the same is hereby amended so as to read as follows:

Not to sell liquor, etc., within certain limits.

Section 717— Every person who sells, furnishes or gives away any spiritous or malt liquor, wine or cider or any beverage containing any intoxicating liquors within five miles of the line of any railroad grade, logging-camp, saw-mill, sheep-shearing camp, irrigation ditch or canal in course of construction, or on any railroad grade on which track is being laid, is punishable by imprisonment in the County Jail, not exceeding sixty days, or by a fine not exceeding one hundred dollars, or both.

Penalty.

Not to apply to town or city.

The provisions of this Section do not apply to the selling, furnishing or giving away intoxicating liquors, wine or cider, within the limits of any town or city.

Repealing clause.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

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Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor. When act. takes effect.

Approved Feb'y 27, 1905.

CHAPTER 40.

"An Act to amend Section 4230 of the Political Code, relative to the jurisdiction and power of County Commissioners, by adding an additional subdivision thereto."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That Section 4230 of the Political Code prescribing the jurisdiction, powers, limitations and restrictions of County Commissioners be extended by adding another sub-division thereto to be known as Subdivision 27, to read as follows: Section 4230 of Political Code extended.

Subdivision 27.

To issue on the credit of the County, Coupon Bonds to an amount sufficient to secure the necessary funds for the procurement of necessary building sites, for the construction of necessary public buildings, and for the construction of bridges and highways, in accordance with the provisions of Articles III and IV, Chapter II, Title II, Part IV of the Political Code. County Commissioners to issue coupon bonds.

Section 2.

That the Bonds issued previous to the passage and approval of this Act by any County in the State of Montana, for the purposes enumerated in subdivision IV and VII of Section 4230 amended above, are hereby legalized and declared to be valid and binding obligations on the respective Counties having issued the same. Bonds issued previous to approval of this act legalized.

Section 3.

This Act shall be in full force and effect from and after its passage and approval. When act takes effect.

Approved Feb'y 27, 1905.

CHAPTER 41.

"An Act to amend Section 4240 of the Political Code relative to the authority of county commissioners to issue Bonds on the credit of the County."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 4240 of Political Code amended.

Section 1. That Section 4240 of the Political Code be, and the same is hereby amended so as to read as follows:

County Commissioners to issue coupon bonds to redeem outstanding bonds, etc.

Section 4240. The Board of County Commissioners has the authority to issue, on the credit of the county, coupon Bonds to an amount sufficient to enable it to redeem all legal outstanding bonds, warrants or orders, for the purchase of necessary building sites, and for the construction of necessary Public Buildings, Public Highways and Bridges, not exceeding in the aggregate, including outstanding bonded indebtedness, five per centum on the value of the taxable property within such County to be ascertained by the last assessment for State and County taxes, previous to issuing such Bonds. Such Bonds are redeemable and payable at such times, not longer than twenty years after the date thereof, as the Board determines, and the interest which such bonds bear must be fixed by the Board, not exceeding six percentum per annum, and to be represented by interest coupons, payable semi-annually on the first days of January and July of each year.

Bonds, when redeemable and payable.

Repealing clause.

Section 2. All Acts and parts of acts in conflict herewith are hereby repealed.

When act takes effect.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved Feb'y 27, 1905.

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CHAPTER 42.

An Act to Establish a State Flag of Montana.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

State Flag of Montana established.

There is hereby established a "State Flag of Montana."

Section 2.

Design of State Flag of Montana

The "State Flag of Montana" shall be a flag having a blue field, with a representation of the Great Seal of the State in the center, and with golden fringe along the upper and lower borders of the flag; the same being the flag borne by the First Montana Infantry, U. S. V., in the Spanish American War with the exception of the device, "1st Montana Infantry, U. S. V."

Section 3.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 27, 1905.

CHAPTER 43.

"An Act to Amend Section 860 and 861 of Chapter V, Title I, Part III, of the Political Code, Relating to Salaries of Justices of the Supreme Court and Judges of the District Court."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 860 of Political Code amended.

That Section 860 of Chapter V, Title I, Part III, of the Political Code be and the same is hereby amended so as to read as follows:

Salary of Justice of Supreme Court.

Section 860. The annual salary of each Justice of the Supreme Court is Six Thousand Dollars.

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Section 2.

Section 861 of Political Code amended.

That Section 861 of Chapter V, Title I, Part III, of the Political Code be and the same is hereby amended so as to read as follows:

Salary of District Judge.

Section 861. The annual salary of each District Judge is Four Thousand Dollars.

Section 3.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4.

When act takes effect.

This Act shall take effect and be in full force from and after the first Monday in January Nineteen Hundred and Nine.

Approved Feb'y 27, 1905.

CHAPTER 44.

An Act Authorizing the Government of the United States to Appropriate the Water of the Streams in the State of Montana, subject to certain restrictions.

Be it Enacted by the Legislative Assembly of the State of Montana:

Government of United States may appropriate water.

Section 1. That the Government of the United States may by and through the Secretary of the Interior, or any person by him duly authorized to act in that behalf, Appropriate the Water of Streams or Lakes within the State of Montana in the same manner and subject to the general conditions applicable to the appropriation of the waters of the state by private individuals: provided, such Appropriation shall be held valid for the period of three years after the filing of the notice of appropriation thereof in the office of the County Clerk and Recorder of the appropriate county, but such Appropriation shall be null and void after the period of three years unless prior to the expiration of such period the work of constructing the canal or ditch by which the same is to be diverted shall have been commenced: and be it further provided, that if

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at any time prior to the expiration of the aforesaid period of three years the Secretary of the Interior, or a person by him duly authorized to act in the premises, files a notice with the County Clerk and Recorder in the county in which the original appropriation notice was filed, announcing an abandonment by the Government of the United States of the irrigation project for which the water was appropriated, then and in that event the appropriation shall become null and void. Appropriation may be abandoned.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor. When act takes effect.

Approved Feb'y 27, 1905.

CHAPTER 45.

"An Act to foster, develop, protect, and promote the Sheep Industry of the State of Montana, and to appoint a Board of Sheep Commissioners and appoint Inspectors, and Deputy Inspectors, and to define their duties and powers, and the duties and powers of the State Veterinary Surgeon in connection therewith;" and to repeal an Act entitled, "An Act for the appointment of a Board of Sheep Commissioners, and to define their powers and duties," approved March 5, 1897, and Section 3030 to Section 3046, inclusive, of the Political Code covering the same subject."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

The Governor of the State of Montana is hereby directed and empowered to appoint a Board of Sheep Commissioners, consisting of one member of each of the counties of the State, which appointment shall be made with the consent of the Senate, when in session. The members of said Board, before entering upon their Governor to appoint Board of Sheep Commissioners.

Oath.

duties, shall take the oath of office prescribed by the Constitution, which oath of office must be filed in the office of the Secretary of State.

Section 2.

Qualifications of members.

Each member of said Board shall be an actual resident of the County for which he is chosen, and an owner of sheep within the State, or directly interested therein, and must, during his term of office, reside within such county. The members of said Board shall hold office for a term of two years, and until their successors are appointed and qualified, and in case of vacancy in said Board from death, resignation or otherwise, the Governor shall fill such vacancy by appointment.

Residence.

Governor to fill vacancies.

Section 3.

Organiaztion of Board.

The Board must organize by electing one of its members as President, and appointing a competent person as Secretary, which Secretary shall receive such compensation as may be allowed by said Board. The members of the Board shall receive actual expenses incurred by them in the performance of their duties, but shall receive no other compensation for their services except as Inspectors or Deputy Inspectors, or protecting the sheep industry as may be prescribed by the rules of the Board. Five members shall constitute a quorum for the transaction of business.

Compensation.

Quorum.

Section 4.

Inspection districts.

The Board may divide the State into suitable Districts for inspection purposes, and provide for and appoint Inspectors and Deputy Inspectors, when necessary. It shall be the duty of the Board to exercise a general supervision over the sheep industry of the State, and to do all acts that, in their judgment, will foster and develop said industry, and protect the same from theft and disease, and shall devise and recommend, from time to time, such legislation as, in their judgment, will foster and develop said industry. The Board may employ all proper and lawful means to procure the attendance of witnesses before it, and may employ attorneys to advise the Board and to assist in

Duties of Board.

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the prosecution of any person or persons guilty of any offense against any of the laws and interests of sheep owners, and the protection and fostering of the sheep industry.

To make rules and regulations.

The Board shall have power to make rules and regulations for its own government, and for the guidance and direction of Sheep Commissioners of each county and the Inspectors, and may convene whenever necessary, provided that there shall be at least one meeting of said Board each year.

Prescribe duties of secretary.

The duties of the Secretary shall be such as may be prescribed by the Board.

Section 5.

Expenses.

It is the duty of the Board to audit all bills for expenses incurred in the protection or fostering of the sheep industry, under the provisions of this Act, and if found correct, to certify the same to the State Auditor, who shall present the same to the State Board of Examiners, and when approved by said Board, he shall draw a warrant on the State Treasurer in favor of the person or persons entitled to such compensation or reimbursement, in the sum so certified and approved, payable out of the "Sheep Inspection and Indemnity Fund."

Payable out of "Sheep Inspection and Indemnity Fund."

Section 6.

Must make annual report to Governor.

The Board must make an annual report in writing, to the Governor, on or before the 20th day of December in each year. Such report must give a complete statement of the transactions of the Board during the year, and a summary of the reports of the Sheep Inspectors.

Section 7.

May appoint sheep inspector for counties.

The Board of Sheep Commissioners, when in session, or when not in session, the President of said Board must, upon request of any organized wool growers associations in the State, or of any three sheep owners in any county, or upon request of the State Veterinary Surgeon, appoint a capable person as Sheep Inspector for such county, who shall hold his office during the pleasure of the Board, or when the Board is not in ses-

sion at the pleasure of the State Veterinary Surgeon, and the President of the Board, and must perform the duties hereinafter prescribed.

The Sheep Commissioners of each County may recommend a suitable person for Inspector.

May appoint special inspectors.

The Board of Sheep Commissioners, or when the Board is not in session, the President thereof, or the State Veterinary Surgeon, may when deemed necessary, appoint one or more special Inspectors, who shall make and file the same oath, perform the same duties, and have the same power and authority as Inspectors.

Compensation of inspector or special inspector.

The Sheep Commissioner of any county may be appointed Inspector, or Special Inspector, and when acting as such Inspector, or Special Inspector, shall be entitled to the same compensation as Inspector.

Section 8.

Oath of inspector.

The Inspector need not be a resident of the county for which he is appointed. He must, before entering upon the duties of his office take the oath of office prescribed by the Constitution, which oath of office shall be filed with the Secretary of State. The Board of Sheep Commissioners, or when the Board is not in session, the President of said Board, or the State Veterinary Surgeon, may request an Inspector of one county to go to another county and perform the duties of Inspector therein, or to assist the Inspector of such County, and when appointed to assist an Inspector, the Inspector of that county shall have general supervision and control over the work to be performed.

Section 9.

May employ person to take charge of diseased sheep.

The Board of Sheep Commissioners, and when the Board is not in session, the President of said Board, or the State Veterinary Surgeon, may employ persons to take charge of all diseased sheep when in quarantine or otherwise, upon refusal of owners to take proper care and to assist the Sheep Inspector, and the person so employed shall be under the supervision and control of the Sheep Commissioner and Inspector of that county.

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Section 10.

Duties of inspector.

The Inspector must inspect all sheep within his county, which he may have received notice or information are affected with, or have been exposed to any infectious or contagious disease, and in case he finds the same are not so diseased, or exposed, he must make and issue a certificate, stating such facts; but if the sheep are affected with or have been exposed to any infectious or contagious disease, they must be quarantined, and the regulations for their quarantine holding and keeping must be at once made by such Inspector, each Inspector so appointed must personally supervise the dipping of, or otherwise treating of all scabby or diseased sheep within his county, and appoint the date for each and every dipping. He has the right with the advice and consent of the State Veterinary Surgeon, to determine and superintend the preparation and mixture of material used in dipping the sheep, and must cause all sheep so quarantined to be distinctly marked with a red letter "S" on the right side.

Inspector to comply with rules and regulations of State Veterinary Surgeon.

In the discharge of his duties, the Inspector shall, so far as practicable, comply with the instruction, rules and regulations prescribed by the State Veterinary Surgeon, and the Board of Sheep Commissioners. All sheep dipped shall be held in quarantine at least ninety days after the last dipping, or until released therefrom by the Inspector upon the order of the State Veterinary Surgeon.

Section 11.

Inspector to cause sheep to be quarantined.

Upon receipt of information of any of the facts mentioned in the preceding Section, or that any sheep within his County are affected with or have been exposed to any infectious or contagious disease, the Inspector must immediately cause such sheep, and all sheep running in the same flock, or upon the same or contiguous range with them, to be examined, and if found so diseased or exposed to disease, to be quarantined and held within a certain limit or place, to be designated by him, and such sheep must be held in quarantine

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until the owner or person in charge, or the Inspector has eradicated such scab or other infectious disease, and the Inspector issues a certificate stating such facts and releasing such sheep from quarantine.

To quarantine premises.

When sheep infected with, or which have been exposed to, any infectious or contagious disease, have been kept in any building or corral, the Inspector must inspect and quarantine such premises, and prohibit any sheep being placed therein until such premises have been cleaned and thoroughly disinfected, which must be attended to within ten days from date of quarantine.

Section 12.

In case of scab.

In all cases of scab, or other infectious disease, among sheep in this State, the Inspector has authority to order a quarantine of the infected premises and diseased animals, or animals exposed to such disease, and to define the limits within which such sheep must be kept, and in case such disease becomes enzootic or epizootic in any locality in this State, the President of the Board of Sheep Commissioners, or State Veterinary Surgeon, must immediately notify the Governor, who must thereupon issue his proclamation, forbidding any sheep to be transferred from said locality without a certificate from the Inspector or State Veterinary Surgeon, showing such sheep to be free from any infectious or contagious disease.

Governor to issue proclamation.

Section 13.

Whenever the Governor has reason to believe that any of the diseases mentioned in this Article or any infectious or contagious diseases has become enzootic or epizootic in certain localities in any other state or territory, or that conditions exist that render sheep likely to convey disease, he must thereupon by proclamation designate such localities, and prohibit the importation from them of any sheep into this State, except under such restrictions as he, after consultation with the President of the Board of Sheep Commissioners or State Veterinary Surgeon, may deem proper.

Governor to issue proclamation prohibiting importation of sheep from infected districts

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Any person, who, after publication of such proclamation, knowingly receives in charge any such sheep from any of the prohibited districts, or transports or conveys the same to and within the limits of any of the counties of this State, is punishable, as hereinafter provided, and is liable for all damages which may be sustained by any person, by reason of the importation, transportation, or reception of such prohibited sheep.

Section 14.

Duty of person bringing sheep into State when proclamation is issued.

Upon the issuing of a proclamation by the Governor, imposing restrictions upon the importation of sheep from any other country, state or territory, the owner or person in charge of sheep being shipped or driven into the State of Montana from any country, state or territory against which quarantine has been declared, must forthwith notify, by telegraphic dispatch, the State Veterinary Surgeon at Helena, Montana, stating from what country, state or territory said sheep are being shipped or driven, the number thereof, and where they will first arrive in this State or be unloaded.

Section 15.

Duty of State Veterinary Surgeon upon receiving notice.

Whenever the State Veterinary Surgeon receives the notice mentioned in the preceding section, he shall immediately notify the Inspector of the County into which such sheep shall first come or be unloaded, and it shall be the duty of the said Inspector to immediately inspect said sheep, and if he finds that they are affected with scab or any other infectious or contagious disease, he may make such order with reference thereto as he may deem necessary, as provided in Section 18 of this Act.

Section 16.

Expense of inspection, etc., paid by the owner.

The expense of inspecting, feeding, holding, dipping, treating, marking and taking care of all sheep inspected, quarantined, dipped or otherwise treated, under the provisions of this Act, including the fees and expenses of the Inspector on account of services in connection with the same, must be paid by the owner, agent or person in charge of such sheep, and such

Lien.

charge shall be a lien upon such sheep for such charges and expenses, which lien shall be prior and paramount to any and all other liens, demands, or claims against such sheep, and the Inspector may retain possession of such sheep until such charges and expenses are paid; but such lien shall not be dependent upon possession, and such lien may be foreclosed in the name of the Inspector, by a sale of the sheep, or as many thereof as may be necessary to pay the same, and costs of sale, at public auction, upon ten days' notice given by posting notices thereof in three public places in said County,

Foreclosure of lien.

or such lien may be foreclosed by an action in Court, or an action may, without foreclosing such lien, be maintained in any court of competent jurisdiction against the owner of such sheep, to recover the amount of such charges and expenses; provided, however, that the fees and expenses of the Inspector for inspecting sheep which have been within this State six months preceding such inspection, shall be paid out of the Sheep Inspection and Indemnity Fund.

Section 17.

Sheep not to be removed without certificate from inspector.

In no case must any sheep affected with, or that have been exposed to any infectious or contagious disease, be removed or allowed to be removed, from on point to another, within any county, or from one county to another, without a written certificate from the Inspector. It shall be unlawful for any railroad company or transportation company to ship sheep from one place to another within this State in cars in which other sheep have been shipped until such cars have been cleaned and carefully disinfected, under the direction

Railroad or transportation companies to disinfect cars.

of the State Veterinary Surgeon, or Inspector, who shall give a certificate which shall accompany the shipment.

Must notify State Veterinary Surgeon.

It shall be the duty of the railroad or transportation company, before cleaning or disinfecting any such car or cars to give notice to the State Veterinary Surgeon, at Helena, Montana, at least five days before the cars are to be so cleaned and disinfected; and it shall be

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the duty of the State Veterinary Surgeon, upon such notice being given, to inspect or cause to be inspected, on or before such date, such car or cars, so cleaned and disinfected, and to give the proper certificate therefor.

Person shipping sheep to notify railroad or transportation company and State Veterinary Surgeon.

It shall be the duty of every person before shipping sheep by rail from one place to another in this State, to notify the railroad or transportation company and also the State Veterinary Surgeon at Helena, Montana, at least five days before the shipment is to be made, of the date the shipment is to be made, the number of sheep to be shipped, and the station from which and the station to which they are to be shipped.

Section 18.

Person bringing sheep into State must notify State Veterinary Surgeon.

Within five days previous to the arrival of any sheep into this State, from any other state or territory, the owner or agent in charge of such sheep must report by telegraphic dispatch, to the State Veterinary Surgeon, at Helena, Montana, stating from what country, state or territory such sheep are shipped or being driven from, the number thereof, and the place where they will first enter the State, and where it is intended to unload them, or, such notice may be given by registered mail, if mailed in time, so that in the ordinary course of mails it will reach the State Veterinary Surgeon's office five days before such sheep would reach the State, and the State Veterinary Surgeon shall, immediately on receipt of such notice, notify the Inspector of the county in which the sheep shall first come to be unloaded, and it shall be the duty of such Inspector to immediately inspect the same, and to make such order or orders for their quarantine, treatment and dipping as he may deem necessary.

State Veterinary Surgeon to notify local inspector.

Section 19.

Sheep brought into State must be dipped and branded.

Any sheep that are shipped or driven into this State with the intention on the part of the owner, of holding them within the State longer than is necessary to feed in transit, which must be done in railroad stockyards, must be at once quarantined, dipped and branded with a red letter "S" on the right side, under the super-

vision of a duly authorized Inspector, at the point of entry or unloading or as near such point as may be deemed safe by the Inspector in charge, without danger of scattering infection.

Must remain in quarantine until released by State Veterinary Surgeon.

After being dipped and branded, they may be moved to the ranch or range where it is the intention of the owner to keep them, providing they can be moved to such ranch or range within ten days, when they must be dipped a second time and remain in quarantine for ninety days or until inspected and released by order of the State Veterinary Surgeon. If the owner or agent fails to so report for inspection, or the said agent or owner fails to obey the order of the Inspector, he or they shall be punishable as hereinafter provided.

Not to apply to sheep billed or shipped through State.

The provisions of this Section shall not apply to sheep that are billed and shipped through the State.

Section 20.

Compensation of County Inspectors.

The Inspector in each county shall receive for his services while necessarily employed in the discharge of his duties, not exceeding Eight ($8.00) Dollars per day, which includes all necessary traveling and other expenses incurred in going to and returning from the place where such inspection is had, or other services performed.

Section 21.

Authority of State Veterinary Surgeon and deputies.

The State Veterinary Surgeon or Deputy State Veterinary Surgeon shall have authority concurrent with the Inspector to inspect and quarantine sheep and do any and all other acts, and make any and all orders that the Inspector or Sheep Commissioner is by this act authorized to do or make, and shall have authority to supervise and direct the action of the Inspectors in the discharge of their duties. And the State Veterinary Surgeon shall have authority to prescribe how sheep shall be dipped or otherwise treated, the kind of dip which may be any one recognized by the United States Bureau of Animal Industry, and to make rules and regulations for the instruction and guidance of the Inspectors in the discharge of their duties.

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Section 22.

Inspector to file bill with State Auditor.

Whenever any inspector files in the office of the State Auditor any bill with proper reports and vouchers, duly approved by the President of the Board of Sheep Commissioners, setting forth:

What to contain.

1. The name in full of such Inspector.
2. The kind and nature of the services rendered.
3. The particular locality where the work was done.
4. The time when, and the length of time employed.
5. The number of sheep inspected and the name of the owner or person in charge.
6. The disease or diseases treated, the number treated for such disease, and the length of time of such treatment, and the result.
7. The amount claimed, and the value of the services.
8. The amount of expenses necessarily incurred.
9. A statement and account of all money received by him from any owner of sheep on account of services performed under this Act, including any sums realized on account of any lien therefor.

Paid out of "Sheep Inspection and Indemnity Fund."

10. The State Auditor must, when such bill is approved by the State Board of Examiners, draw a warrant in favor of such Inspector, payable out of any moneys in the "Sheep Inspection and Indemnity Fund."

Section 23.

Inspector to keep record.

Every Inspector appointed under the provisions of this Article, must keep a book account to be known as the "Inspection Record," in which he must enter and record all his official acts and proceedings. Such record must particularly show the name of the owner of every flock of sheep inspected, when the same was inspected and the number in each flock, the result of such inspection, whether the same were quarantined, the limits of the quarantine, when released therefrom, the names of the persons to whom certificates have been granted, and when, and all orders and directions made in relation to any matters herein designated.

What record to contain.

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Must notify secretary of Board of Sheep Commissioners.

He shall notify the Secretary of the Board of Sheep Commissioners when any sheep are brought into his county from any other state or territory, when any sheep are inspected by him and found to be diseased, with the name of the owner, the number thereof, and where located, when any sheep are quarantined by him, the limits of the quarantine, and when such sheep are released therefrom, and furnish such other information as the Secretary of the Board of Sheep Commissioners may, from time to time, require.

Must deliver records to secretary of Board of Sheep Commissioners.

Upon the termination of his term of office, he shall deliver such record to the Secretary of the Board of Sheep Commissioners.

Section 24.

Any person who brings or causes to be brought into this State, any sheep infected with scab, or other infectious or contagious disease, or who shall violate, or fail to comply with any order made by the Inspector, State Veterinary Surgeon, or Deputy State Veterinary Surgeon, or proclamation issued by the Governor, under the provisions of this Act, or who violates or disregards any of the provisions of this Act, or who shall, in any manner hinder, obstruct or resist any Inspector, Veterinary Surgeon or Deputy Veterinary Surgeon in the discharge of his duties, or who shall break any quarantine, or wilfully or negligently permit any animals to escape such quarantine, shall upon conviction be

Punishment for violation of this act.

punished by imprisonment in the county jail not to exceed one year, or by fine not exceeding One Thousand ($1000.00) Dollars, or by both such fine and imprisonment, and shall be liable to a civil action for all damages which may be sustained by any person by reason of such act or acts.

Section 25.

Inspector must make report to secretary of Board of Sheep Commissioners and to State Veterinary Surgeon.

Every Inspector must, on or before the 30th day of November of each year, make a report in writing to the Secretary of the Board of Sheep Commissioners, showing from his inspection record particularly the matters therein contained since his last report, which

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report shall be in triplicate, and one shall be filed in the office of the Secretary of said Board, and one transmitted to the State Veterinary Surgeon, and the said State Veterinary Surgeon must embody the information thus given in his report to the Governor. If such report is not made in triplicate by the Inspector, the Secretary of the Board shall make and certify a copy thereof, and transmit the same to the State Veterinary Surgeon.

Section 26.

Board of Sheep Commissioners to employ specialists.

The Board of Sheep Commissioners, or the President of said Board when the Board is not in session, shall have authority, upon recommendation of the State Veterinary Surgeon, to employ one or more specialists to investigate any subject relating to fostering, promoting and protecting the sheep industry of the State, and cause to be performed any act or thing, which, in their (or his) judgment, is necessary, or would tend to foster, promote and protect the sheep industry. Such specialist or specialists may be employed by the day, week, month or year, and shall be under the direction and control of the Board of Sheep Commissioners, or when the Board is not in session, the President of said Board. The expense of such specialists shall not exceed Five ($5.00) Dollars per day each, together with actual expenses for transportation.

Section 27.

County Commissioners must levy tax on assessed valuation of sheep.

The Board of County Commissioners at the time of the annual levy of the taxes, must levy a tax of one-fourth of a mill on every dollar of the assesed value of all sheep in their respective counties to be collected as are other taxes, and paid to the State Treasurer who must keep the same as a separate fund to be known as the "Sheep Inspection and Indemnity Fund," which fund must be used in defraying any expenses of the Sheep Inspectors and all other expenses incurred under the provisions of this act, except the salary of the State Veterinary Surgeon: but at no time shall any warrant be drawn upon said fund in excess of the amount of

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moneys in said fund, or to exceed the amount of taxes collected and paid in.

Section 28.

Term of office.

The Sheep Commissioners appointed under the provisions of Senate Bill No. 100, approved March 5th, 1897, shall continue in office for the term provided in said Act: but hereafter shall be governed and controlled by the provisions of this Act.

Section 29.

Repealing clause.

That an Act entitled, "An Act for the appointment of a Board of Sheep Commissioners, and to Define their Powers and Duties," approved March 5th, 1897, and Section 3030 to Section 3046, inclusive, of the Political Code, and all Acts and parts of Acts inconsistent with this Act are hereby repealed.

Section 30.

When act takes effect.

This Act shall take effect and be in force from and after its passage and approval.

Approved Feb'y 28, 1905.

CHAPTER 46.

An Act to amend Section 20 of an Act entitled, "An Act to establish a tax on direct and collateral Inheritances, Bequests and Devises, to provide for its collection and direct the disposition of its proceeds," approved March 4, 1897.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 20 of an act approved March 4, 1897, amended.

That Section 20 of an Act entitled, "An Act to establish a tax on direct and collateral Inheritances, Bequests and Devises, to provide for its collection and direct the disposition of its proceeds," approved March 4, 1897, be amended so as to read as follows:

Section 20.

County Attorney to prosecute proceedings to collect tax.

Whenever the treasurer of any county shall have reason to believe that any tax is due and unpaid under

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this Act, after the refusal or neglect of the persons interested in the property liable to said tax, to pay the same, he shall notify the County Attorney of the proper County, in writing, of such failure to pay such tax, and the County Attorney so notified, if there is a probable cause to believe a tax is due and unpaid, shall prosecute the proceedings in the District Court of the proper County, as provided in Sections 18 and 19 of this Act, for the enforcement and collection of such tax.

Section 2.

This Act shall take effect from and after its passage and approval. When act takes effect.

Approved Feb'y 28, 1905.

CHAPTER 47.

"An Act to amend Section 3866 of the Civil Code of the State of Montana, relating to the renewal of Mortgages of personal property, as amended by "Chapter LV, Laws of 1903, approved March 4, 1903."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

"That Section 3866 of the Civil Code of the State of Montana, relating to the renewal of Mortgages of personal property, as amended by Chapter LV, Laws of 1903, approved March 4th, 1903," be, and the same is hereby amended so as to read as follows: Section 3866 of act approved March 4, 1903, amended.

Section 3866.

Every mortgage of personal property made, acknowledged and filed, as provided by the laws of this State, may be renewed at any time within sixty days after maturity of the debt or obligation secured thereby, in case such debt or obligation or any part thereof, be unpaid or unfulfilled, by filing an affidavit showing the date of such mortgage, the name of the mortgagor and mortgagee, the date of filing the same, the amount of the debt or obligation secured thereby, and the amount Renewal of chattel mortgage.

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of the debt justly owing at the time of filing such affidavit, or the conditions of the obligation unfulfilled, and that such debt or obligation was neither made nor renewed to hinder, delay or defraud the creditors or subsequent incumbrances of the mortgagor; which affidavit must be subscribed and sworn to by the mortgagee or his assignee. In case of the absence of the mortgagee or his assignee from the city or township where such affidavit is executed, the affidavit may be made by the agent or attorney in fact of the mortgagee or his assignee. The affidavit must be made before an officer authorized to administer oaths, filed in the office where the mortgage therein described is filed; and thereupon the County Clerk of such County must attach such affidavit to the mortgage therein described and note the date of the filing thereof opposite the entry of the mortgage therein described, in the book provided by law for the entry of chattel mortgages; and the original mortgage shall then continue to be in full force and virtue for the period of one year after the expiration of the term for which it was originally given; and a like affidavit may be filed within sixty days after the expiration of said period of one year last aforesaid, and the said original mortgage shall then continue to be in full force and virtue for the period of one more year and in addition to the first years renewal, and under the same conditions and within the same limitations a like affidavit may be filed to renew the said mortgage for each succeeding year thereafter until the debt secured thereby shall be fully paid.

Section 2.

When act takes effect.

This Act to take effect and be in force on and after its passage and approval by the Governor.

Approved Feb'y 28th, 1905.

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CHAPTER 48.

"An Act amending Title XII, of Chapter XIV, Part III, Article III of the Code of Civil Procedure of the State of Montana, relating to the Powers and Duties of Guardians by adding two Sections thereto, to be known as Sections 2989 and 2990."

Be it Enacted by the Legislative Assembly of the State of Montana.

Section 1.

That Title XII, Chapter XIV, Part III, Article III of the Code of Civil Procedure of the State of Montana, be amended by adding two Sections thereto to be known as Sections 2989 and 2990, so as to read as follows:

Title XII, Chapter XVI, Part III, Article III, of Civil Code amended

Section 2989.

Whenever it appears to the Court or Judge to be for the advantage of the ward of his estate, to raise money by a mortgage of the real property of the ward or any part thereof, the Court or Judge as often as occasion therefor shall arise in the administration of any such estate, may on a petition, notice and hearing as provided for in the following Section, authorize, empower and direct the guardian to mortgage such real estate or any part thereof.

Ward's estate may be mortgaged.

Section 2990.

To obtain an order to mortgage such realty, the proceedings to be taken and the effect thereof must be as follows:

1.

The guardian or any person interested in the estate of the ward, may file a verified petition showing: the particular purpose or purposes for which it is proposed to make the mortgage, which shall be either to pay the debts, costs and charges of maintenance, charges of the administration, or to pay, reduce, extend or renew some lien or mortgage already subsisting on said realty or some part thereof, or for the purpose of benefiting or improving the real estate of the ward, when in the opinion of said Court such improvement is advisable;

Proceedings to obtain order to mortgage realty.

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a statement of such debts, charges, costs of administration, liens or mortgages to be paid, reduced, extended or renewed, or the purposes and advisability of improving such real estate as the case may be; the advantage that may accrue with the estate from raising the required money by such mortgage; the amount to be raised, with the general description of the property proposed to be mortgaged, and the names of the ward or wards, and his or her next of kin, if any, so far as known to the petitioner.

2.

Persons interested may oppose petition.

Upon filing such petition an order must be made by the Court or Judge requiring all persons interested in the estate to appear before the Court or Judge at a time and place specified, not less than four nor more than eight weeks from the time of making such order to show cause why an order should not be granted for a mortgage of such real property. Such order should state the amount mentioned in the petition or such lessor amount as to the Court or Judge shall seem meet and referring to the petition on file for further particulars; which order shall briefly describe such real estate to be mortgaged.

3.

Order to show cause, how served.

The order to show cause may be personally served on the persons interested in the estate at least ten days before the time appointed for the hearing of the petition, or it may be published once a week for four successive weeks in a newspaper of general circulation published in the county where said petition is on file.

Written consent.

If written consent to making the order is subscribed by all persons interested therein, notice need not be served or published.

4.

The Court or Judge at the time and place appointed in the order, or such other time to which the hearing may be postponed, upon proof of the service, or publication of the order, or upon the written consent of those interested in said estate, must hear and examine

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the allegations and proofs of the petitioner, and of all other persons interested in the estate who may oppose the application; and if after a full hearing, the Court or Judge is satisfied that it will be to the advantage of the estate to mortgage the whole or any portion of the real estate of such ward or wards, an order must be made authorizing, empowering and directing the guardian to make such mortgage. The order may direct the amount of such mortgage, the maximum rate of interest, and the period of the loan; and may require that the interest or any part of the principal be paid from time to time out of the whole estate or any part thereof, and may provide that any buildings on such premises so mortgaged shall be insured for the further security of the lender.

5.

Guardian to execute mortgage.

After the making of the order to mortgage, the guardian as such shall execute, acknowledge and deliver a mortgage of the premises, for the amount and period specified in the order, setting forth in the mortgage that it is made by authority of the order, and giving the date of such order. A certified copy of the order shall be recorded in the office of the County Clerk of every County in which the incumbered land or any portion thereof lies. A note bearing the signature of the guardian as guardian of such ward or wards, naming them, shall be given at the time of the execution of the mortgage for the amount or sum expressed in such mortgage as evidence thereof, and delivered to the lender, but such note or mortgage shall create no personal obligation upon the guardian or ward, but the holder of such note and mortgage shall look solely for satisfaction to the proceeds which may be derived from a sale of the lands described in such mortgage and no other, except as provided in Sub-division VI.

Irregularity in proceedings does not invalidate mortgage.

Every such mortgage shall be effectual to mortgage and hypothecate all the right, title and interest of the ward in such property therein described. No irregularity in the proceedings shall impair or invalidate such

mortgage and the mortgagee his heirs and assigns shall have and possess the same rights and remedies, on the mortgage as if it had been made by the ward after arriving at majority. Upon any foreclosure of such mortgage, if the proceeds of the incumbered property are insufficient to pay the mortgage, no demand or claim for any deficiency of such proceeds to satisfy the mortgage, or the costs or expenses of sale shall be allowed, except in cases where the mortgage shall be given to pay, reduce, extend or renew a mortgage previously subsisting on such realty at the time of the giving of such mortgage herein authorized.

Approved March 1, 1905.

CHAPTER 49.

An Act to amend Sections 3070, 3071, 3072 and 3076 of the Political Code of Montana, as amended by an Act approved March 6th, 1903; relating to the Bounties for the killing of certain wild animals.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 3070 of Political Code amended.

Section 1. That Section 3070 of the Political Code of the State of Montana, as amended by an Act approved March 6th, 1903, be and the same is hereby amended so as to read as follows:

Section 3070. That there shall be paid out of the fund named in Section 3076 of the Political Code of the State of Montana, as approved by an Act approved March 6th, 1903, created for the killing of the following named animals, hereafter killed in the State of Montana, the following bounties:

Bounties.

For each grown wolf, $10.00; for each coyote $3.00; for each wolf pup $3.00; for each coyote pup $3.00; for each mountain lion $10.00.

Section 3071 of Political Code amended.

Section 2. That Section 3071 of the Political Code of the State of Montana, as amended by an Act approved March 6th, 1903 be and the same is hereby amended so as to read as follows:

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Duty of persons killing animals on which bounty is paid.

Section 3071. Any person killing any of the aforesaid animals, except mountain lions, to obtain bounty thereon, shall, within sixty days of the date of the killing, exhibit the skin or skins of the said animal or animals including the tail and the skin from the entire head, including the ears thereof, to the Bounty Inspector nearest to the locality in which the animal or animals were killed; and shall at the same time, file with the Bounty Inspector, as hereinafter provided, an affidavit setting forth that he killed the animal or animals from which the skin or skins were taken; that the same was killed nearer to, or if more than one hide is presented, that the greater number were killed nearer, to the residence of the said Bounty Inspector to which the same was presented, than to any other Bounty Inspector, and also state the county or counties in which said animals were killed, and every Bounty Inspector appointed under the provision of this Act shall be empowered to administer oaths to any and all persons making any affidavit as aforesaid: Provided, however, that any person killing any mountain lion to obtain bounty thereon, shall present the same to a Bounty Inspector as provided in this Section for wolves and coyotes, except that in addition to the requirements of this Section the skins of mountain lions shall also contain the entire skin of the lower jaw which shall be severed by the Bounty Inspector and thereafter treated in the same manner as scalps of wolves and coyotes herein provided.

Section 3072 of Political Code amended.

Section 3. That Section 3072 of the Political Code of the State of Montana, as amended by an Act approved March 6th, 1903, be and the same is hereby amended so as to read as follows:

Bounty Inspectors.

Section 3072. It shall be the duty of the Judge of the District Court presiding over any of the counties within the state to forthwith appoint three representative stock growers, whose duty it shall be to appoint, not to exceed ten Bounty Inspectors within any of the Counties of the State, whose duty shall be to receive

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and examine all skins or pelts presented for bounty within their respective localities; the said Bounty Inspector shall receive ten cents for each skin examined, said amount to be paid by the owner of said skin; and each shall take the oath of office provided in case of county officers, said oath to be filed with the County Clerk of the County wherein he shall be appointed; each Bounty Inspector shall to prevent fraud, minutely examine each skin presented, and should such examination disclose that the scalp and ears, with the skin from the entire head of each animal or animals, has not been severed, punched, patched or in any manner marked, he shall there in the presence of the persons presenting such skin, mark each skin by severing the skin from the head, including the ears, and then redeliver the skin or skins to the person presenting the same, and shall require the affidavit of one resident taxpayer residing in the vicinity in which said animal or animals were killed, setting forth that he is a resident taxpayer, and taxpayer on livestock in said county, giving his postoffice address and stating that he is personally acquainted with the person presenting the skin or skins, and to his own knowledge, information and belief, said person did kill or cause to be killed the animals from which the skin or skins were taken, within sixty days preceding the offering of such skins for bounty, in the locality nearest to where said Bounty Inspector resides, and at the same time make out and deliver to said person, a certificate addressed to the County Clerk of his County, and immediately mail to said County Clerk a duplicate thereof, showing the date, number and kind of skins so marked by such severing, and the name of the person presenting the fact of the filing of the affidavit herein provided for, and the examination made as required; and said certificate shall be duly signed by him in his official capacity; Provided, that when any doubt shall exist as to the kind of skin or skins presented, whether wolf or coyote, the certificate shall be issued for the lesser bounty, and

Duty of Inspectors.

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each Bounty Inspector shall keep a record in a bound book of all the skins so marked and severed, showing the date, number and kinds, the names of the persons presenting the same, which book shall be a book of official record, and the Bounty Inspector shall immediately string upon a wire all of the said scalps, including the ears thereof as severed by him, and securely seal ends of said wire with a lead seal by means of a punch, both to be furnished by the State Board of Stock Commissioners, each punch to contain a letter of the alphabet and no two punches in the same County to contain the same letter, and numbering seal with a number corresponding with the number of Bounty Certificate issued for the skin or skins contained thereon together with his letter; all wolf, coyote, pup wolf, and pup coyote heads to be strung on separate wires, respectively, and so noted on said certificate the number of the heads on said wire. The Bounty Inspector is not authorized to examine any skin or issue any certificate except on the first three days of each month, and any examination made by him or certificate issued on any other day is void. The Bounty Inspector shall, not later than the 15th of each month, render to the County Clerk and Recorder of the County in which he resides a report setting forth the names of the persons presenting the skins, with the number of the certificate, the kind and number of the skins so presented, as to each and every certificate which he has issued during said month. The County Clerk shall upon the receipt of each said certificate file the same in the order in which they are received, and safely keep them until the arrival of the skin or skins mentioned in such certificate, properly sealed as hereinbefore provided; and upon the receipt of said skin or skins so sealed, he shall call to his assistance either the County Treasurer, or in his absence, the Clerk of the District Court, who being present, shall both, in order to prevent fraud, minutely examine each scalp strung upon each wire, and should such examination disclose

To make report.

Duty of County Clerk.

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the scalps as heretofore specified, of such animal or animals, agree with the number and kind of scalps or lower jaw of mountain lion mentioned in these said certificates, the County Clerk shall thereupon, in the presence of said Treasurer or Clerk of District Court destroy said scalps without removing same from said wire, by fire; and said County Clerk shall then make out and deliver to the person named in said certificate, a second certificate showing the same statement of facts, as contained in the certificate of the Bounty Inspector with the additional statement of the examination so made by him; and that he found said scalps to agree with the number and kind mentioned in the certificate of said Bounty Inspector, and so stated therein in said certificate. In no case should a bounty certificate be issued by the Clerk and Recorder for more scalps than are actually received and counted by him, and the County Clerk and Recorder shall receive for each scalp or mountain lion lower jaw accounted for by him, the sum of five cents each to be paid quarterly by the Treasurer out of the Bounty Fund. The County Clerk shall keep a record in a bound book of all certificates so received and issued, showing the date, and description of the number and kind of hides, and the name of the person presenting the same, which book shall be an official record.

Section 3076 of Political Code amended.

Section 4. That Section 3076 of the Political Code of Montana, as amended by an Act approved March 6th, 1903, be and the same is hereby amended to read as follows:

County Commissioners to levy tax.

Section 3076. It shall be the duty of the Board of County Commissioners of each County in this State at the time of the levy of the annual tax, to levy a special tax of four and one-half mills on the dollar, upon the assessed valuation of all cattle, horses, mules, asses, sheep and goats in their respective Counties, which tax shall be collected as other taxes on live property, and when so collected shall be paid into the State Bounty Fund aforesaid, which said fund shall

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be preserved inviolate for the payment of bounties herein above provided for. Any County Commissioner who shall interfere to prevent the levy of the taxes aforesaid, shall be deemed guilty of a misdemeanor.

Misdemeanor.

Section 5. All Acts and parts of Acts in conflict herewith are hereby repealed.

Repealing clause.

Section 6. This Act shall be in full force and effect from and after its passage and approval by the Governor.

When act takes effect.

Approved March 1st, 1905.

CHAPTER 50.

An Act Prescribing the Hours of Labor which shall constitute a day's work on all works or undertaking carried on or aided by Municipal, County of State Government and on all contracts let by them, and in mills and smelters for the treatment of ores and in underground mines, and providing a penalty for the violations of the provisions of this Act.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Eight hours to constitute a day's work.

A period of eight (8) hours shall constitute a day's work on all works or undertakings carried on or aided by any Municipal, County or State Government, and on all contracts let by them, and in mills and smelters for the treatment of ores, and in underground mines.

Section 2.

Misdemeanor.

Every person, corporation, stock company or association of persons who violate any of the provisions of Section One (1) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars ($100) nor more than Five Hundred ($500) Dollars or by imprisonment in the County Jail for not less than Thirty days nor more than six months, or by both such fine and imprisonment.

Penalty.

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Section 3.

Repealing clause.

All Acts or parts of Acts in conflict herewith are hereby repealed.

Section 4.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 1st, 1905.

CHAPTER 51.

An Act to Regulate the Practice of Osteopathy in the State of Montana, and to license Osteopaths to practice in the State, and to Establish a Board of Osteopathic Examiners, and to Punish Persons violating the provisions of this Act, and to Repeal House Bill No. 38 of the Seventh Legislative Assembly of the State of Montana, Approved February 26th, 1901.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Governor to appoint State Board of Osteopathic Examiners.

The Governor of this State shall appoint a Board as soon as possible after the passage of this Act, to be known as the State Board of Osteopathic Examiners. Said Board shall consist of three qualified, practicing resident Osteopaths, each of whom shall be a graduate of a legally authorized school of Osteopathy; each member of said Board shall serve thereon for a term of four years, and until his successor is appointed, except in cases of the first Board, on which one shall serve for four years, one for three years, and one for two years, as specified in their appointment. In case of vacancy by death or otherwise, there shall be appointed in like manner a person to serve through such unexpired term.

Section 2.

Officers of Board.

Said Board of Osteopathic Examiners shall elect a President, a Secretary, and Treasurer on the first Tuesday in March, each year, from among their number, and shall have a common seal, and its President and

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Secretary shall have power to administer oaths. Said Board shall hold meetings for the examinations at the State Capitol on the first Tuesday in March and September of each year and such other meetings as may be deemed necessary; each session thereof not to exceed three days, and shall issue certificates of qualification to all applicants having a diploma from a legalized, recognized and regularly conducted school of osteopathy as such, at the time it was issued, or who pass the required examination as provided by Section four of this Act. Examinations.

Said certificates shall be signed by the President and Secretary of said Board, and attested by its seal, and shall be conclusive of the right of the lawful holder thereof to practice osteopathy in this State. Said Board shall keep a record of all proceedings; also a register of all applicants for a license, together with his or her name and age and time spent in the study and practice of osteopathy; and the name and location of the school or institute of osteopathy from which said applicant holds a diploma; and shall keep a register which shall show the names of all applicants licensed; and those who are rejected under this Act. Said books shall be prima facie evidence of all matters recorded therein. Certificate.

Record of Proceedings.

Section 3.

It shall be unlawful for any person to practice osteopathy in this State without a license from said Board; provided, that all persons practicing osteopathy within this State prior to the passage of this Act, and holding a diploma from a legally authorized school of osteopathy of good repute as such and wherein the course of study comprises twenty months or four terms of five months each, and shall have been in personal attendance at said school not less than eighty per cent of the required time, may be licensed to practice osteopathy in this State by submitting to said Board of Osteopathic Examiners such a diploma and satisfying such Board that they are the legal holders thereof, or Unlawful to practice without license.

by undergoing an individual examination as hereinafter provided, at a regular meeting of said Board for examination. The fee for such license shall be twenty dollars payable to the Secretary of said Board of Examiners when application is made for certificates; provided that in case of failure of an applicant to pass a satisfactory examination, he will be entitled to a second examination without charge at the next succeeding meeting of the Board; provided, that all graduates of a reputable school of osteopathy who present themselves for examination, and who have graduated later than April, 1907, shall present satisfactory evidence to the Board of having actually attended such a school for a period of not less than three school years of nine months each.

Fee for license

Section 4.

Secretary may grant temporary license.

The Secretary of the Board of Osteopathic Examiners may upon examination, grant a certificate to an applicant to practice osteopathy until the next meeting of said Board when he shall report the facts, at which time the temporary certificate shall expire, but such temporary certificate shall not be granted by the Secretary of said Board after the Board has once rejected the applicant.

Section 5.

What examination embraces.

All persons, after March first, 1901, commencing the practice of osteopathy in this State, in any of its branches, shall apply to said Board for a license to do so, and such applicant at the time and place designated by said Board, shall submit to an examination in the following branches, to-wit: anatomy, physiology, chemistry, pathology, gymecology, obstretrics, and theory and practice of osteopathy, and such other branches as are taught in well regulated and recognized schools of osteopathy and deemed advisable by said Board and shall present evidence of having actually attended for at least twenty months, or four terms of five months each a legally authorized and regularly conducted school of osteopathy, recognized by said Board of

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Osteopathic Examiners, except as otherwise provided in Section 3 of this Act.

All examination papers on subjects peculiar to osteopathy shall be examined and their sufficiency passed upon by the members of said Board, whose decision shall be final thereon subject, however, to the right of appeal, which appeal shall be to the District Court of the County in which the examination is held and said District Court shall review such examination without a jury and shall have the right to take testimony thereon and the decision of such District Court shall be also subject to the right of appeal to the Supreme Court by any persons aggrieved thereby, and upon such appeal the Supreme Court shall have the right to consider questions of both law and fact, and said Board shall cause such examination to be scientific and practical, but of sufficient severity to test the candidate's fitness to practice osteopathy. After examination the Board shall grant a license to such applicants as shall pass the examination to practice osteopathy in the State of Montana, which license shall be granted by not less than two members of such Board attested by the seal thereof. For the support and maintenance of said Board, the fee for such examination and license shall be twenty dollars, which shall be paid in advance to the Secretary of said Board, to defray the expenses thereof.

May appeal to District Court

Fee for examination and license.

Section 6.

The certificate provided for in Section five of this Act shall not authorize the holder thereof to prescribe or use drugs in the practice of osteopathy or to perform major or operative surgery; and any person holding a certificate under this Act, who shall prescribe or use drugs in the practice of osteopathy, or who shall perform major or operative surgery, shall be deemed guilty of a misdemeanor; provided, that nothing in this Act shall be so construed as to prohibit any legalized osteopath in this State from practicing major or operative surgery after having passed a satisfactory examination

Not to use drugs.

Misdemeanor.

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in surgery before the State Board of Medical Examiners of the State of Montana.

Section 7.

License to be recorded.

The person receiving such license shall have it recorded in the office of the County Clerk in the County in which he or she resides, and the record shall be endorsed thereon.

In case the person so licensed shall remove to another county to practice, the holder shall record the license in a like manner in the county into which he or she removed, and the County Clerk is entitled to charge and receive the usual fee for making such record.

Section 8.

Misdemeanor.

Penalty.

Any person practicing osteopathy in this State without first obtaining a license herein provided for, or contrary to the provisions of this Act, or who, for the purpose of obtaining such license shall falsely represent himself or herself to be the holder of a diploma as herein provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than fifty dollars, nor more than one hundred dollars, or by imprisonment in the county jail for a period of not more than ninety days for each and every such offense. It shall be the duty of the respective County Attorneys to prosecute violations of this Act.

Section 9.

Board may revoke certificate.

Any such certificate may be revoked by said Board, upon satisfactory proof of fraud, or misrepresentation in procuring the same, or for any violation of the provisions of this Act, or any gross immorality by the holder of such certificate.

Section 10.

Compensation of Board.

Out of the funds coming into the possession of said Board each of the members of said Board may receive as compensation the sum of five dollars for each day actually engaged in the duties of their office, together with all legitimate and necessary expenses incurred in

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attending the meetings of said Board. No part of the compensation or other expenses of said Board shall be paid out of the State Treasury. The fees coming into the Treasury of said Board shall be paid out upon a warrant of the President and Secretary thereof in payment of the compensation and expenses of said Board in carrying out the provisions of this Act. Said Board shall make an annual report of its proceedings to the Governor of the State for the year ending on the thirty-first day of December preceding the making of said report. Said report shall be filed with the Governor on or before the fifteenth day of January of each year.

Board to make annual report to Governor.

Section 11.

Every graduate of a reputable school of osteopathy who has been strictly examined and thereafter licensed to practice osteopathy in another state, may be licensed to practice osteopathy in this State upon the production, to the Board of his or her diploma, and the license obtained in such other state and satisfactory evidence of good moral character, and the payment of all legal fees required of other applicants; but the Board may examine the applicant as to his or her qualification.

License may issue without examination.

Section 12.

Every person shall be deemed practicing osteopathy within the meaning of this Act who shall attend to, or use in connection with, his or her name the words Doctor of Osteopathy, or Diplomat in Osteopathy, or Osteopath, or Osteopathist, or Osteopathic Practitioner, or Osteopathic Physician, or words of like import, or any abbreviation thereof, or the letters D. O.

Who deemed practitioners.

Section 13.

The system, method, or science of treating diseases of the human body, commonly known as osteopathy, is hereby declared not to be the practice of medicine or surgery within the meaning of Sections 600, 601, 602, 603, 604, 605, 606, 607 and 608, Chapter 16, Part 3, Title 10, of the Political Code of the State of Montana, and not subject to the provisions of said Sections, and Section 706, Title 10, of the Penal Code of the State of

Osteopathy not practice of medicine or surgery.

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Montana, and not subject to the provisions of said Sections.

Section 14.

Repealing clause.

House Bill No. 38 of the Seventh Legislative Assembly of the State of Montana, and all Acts and parts of Acts in conflict with this Act are hereby repealed.

Section 15.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 1, 1905.

CHAPTER 52.

An Act to Repeal Sections 4, 6, 11, 12, 21 and 25 of House Bill No. 123, entitled "An Act to repeal Sections 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143, and 1144 of the Penal Code of the State of Montana, and to provide further protection to birds, fish, fur bearing animals and game, approved March 8, 1897, and to also repeal Sections 1, 2, 3, and 5 of the said Act as amended by House Bill No. 13, Session Laws of 1901, Approved March 14, 1901, and to provide further protection to birds, fish, fur bearing animals and game.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Certain sections of act approved March 14, 1901, repealed.

That Sections 4, 6, 11, 12, 21 and 25 of an Act entitled, "An Act to repeal Sections 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143 and 1144 of the Penal Code of the State of Montana, and to provide further protection to birds, fish, fur bearing animals and game," Approved March 8, 1897, and Sections 1, 2, 3 and 5 of said

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Act as amended by House Bill No. 13, Session Laws of 1901, approved March 14, 1901, be and the same are hereby repealed.

Section 2.

Unlawful to kill certain game animals in close season

Any person who wilfully shoots or kills, or causes to be shot or killed any Moose, Bison, Caribou, Buffalo, Antelope or Beaver shall be punished by imprisonment in the state prison for a term not exceeding two years, or in the county jail not less than six months, or shall be fined not more than Five Hundred Dollars nor less than Fifty Dollars, or by both such fine and imprisonment; provided, however, that it shall be lawful for any person to kill beaver upon his own premises, when such killing is necessary for the protection of said premises, but such person must at the time of such killing have a permit from the State Game and Fish Warden authorizing such killing. Any person who wilfully shoots or kills, or causes to be shot or killed, any quail, or Chinese pheasant shall be punished by imprisonment in the county jail for a term not less than ninety days nor more than six months, or by a fine of not less than Twenty-Five Dollars nor more than Five Hundred Dollars, or by both such fine and imprisonment.

Penalty.

Quail or Chinese pheasant.

Section 3.

Any person who between the first day of December of one year and the first day of September of the following year wilfully shoots or kills, or causes to be shot or killed, any elk, or who in a single open season shall shoot or kill, or cause to be shot or killed, more than one elk shall be punished by imprisonment in the state prison for a term of not exceeding two years or in the county jail not less than six months, or by a fine of not more than Five Hundred Dollars nor less than One Hundred Dollars, or by both such fine and imprisonment.

Elk.

Section 4.

Deer, Rocky Mountain goat and mountain sheep.

Any person who between December first of any year and September first of the following year, wilfully shoots or kills, or causes to be shot or killed, any deer,

Rocky Mountain Goat, or Mountain Sheep, or who in the open season of any calendar year shoots or kills, or causes to be shot or killed more than three deer, one Rocky Mountain Goat and one Mountain Sheep, shall be punished by imprisonment in the State Prison for a term not exceeding one year, or in the county jail not less than three months, or by a fine of not more than Five Hundred Dollars nor less than One Hundred Dollars, or by both such fine and imprisonment.

Section 5.

Hunting with dogs.

Any person who hunts, chases, or runs with dogs, any of the animals mentioned in Sections two, three and four of this Act shall be punishable by a fine of not less than Fifty Dollars nor more than Three Hundred Dollars, or by imprisonment in the county jail for a term of not less than sixty days nor more than six months, or by both such fine and imprisonment.

Section 6.

Prairie chicken, fool hen, sage hen, etc.

Every person who between the first day of December of any year and the first day of September of the following year wilfully shoots or kills, or causes to be shot or killed, any grouse, prairie chicken, fool hen, sage hen, pheasant, partridge or turtle dove, or who during the open season shoots or kills, or causes to be shot or killed, more than ten grouse, or prairie chickens, or fool hens, or pheasants, or sage hens, or partridges, or turtle doves, in any one day shall be punished by a fine of not less than Twenty-five Dollars nor more than Two Hundred and Fifty Dollars, or by imprisonment in the county jail not exceeding three months nor less than one month, or by both such fine and imprisonment.

Section 7.

Water fowl.

Every person who wilfully shoots or kills, or causes to be shot or killed, any wild geese, wild ducks, brant or swan between the first day of December of any year and the first day of September of the following year, shall be punishable by a fine of not less than Twenty-five Dollars nor more than Two Hundred and Fifty

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Dollars, or by imprisonment in the county jail for a term not exceeding three months or less than one month, or by both such fine and imprisonment.

Section 8.

Seining fish.

It is, however, lawful to use a seine or catch net in the Missouri River, except in that portion of said river known as Lake Sewell extending from the dam of the Missouri River Power Company, in Lewis & Clarke County, Montana, up said river to the bridge known as Blake's Ferry Bridge, in Broadwater County, and also in the Yellowstone River, except in that portion of said river above its confluence with the Big Horn River; provided, said seine or net has a mesh not less than one and one-half inches square; provided, further, that it shall be unlawful for any person to sell, or offer for sale, any fish caught by the use of such seine or catch net. Any person guilty of a violation of the provisions of this Section shall be punished by a fine of not less than Twenty-five Dollars nor more than Two Hundred Dollars, or by imprisonment in the county jail for a term not less than sixty days nor more than six months, or by both such fine and imprisonment.

Section 9.

Catching trout, grayling or black bass for market.

Every person who in any way catches any trout, grayling or black bass, or who shall remove the eggs or spawn from any of said fish for speculative purposes, for market or for sale, or who shall sell, or offer for sale, any trout, grayling, black bass, or eggs, or spawn therefrom, shall be punishable by a fine of not less than Twenty-five Dollars nor more than Two Hundred Dollars, or by imprisonment in the county jail not less than thirty days nor more than inety days, or by both such fine and imprisonment; provided, however, that this Section shall not apply to fish caught in private ponds by the owners thereof.

Section 10.

Fines, bonds and penalties; how collected.

All fines, bonds and penalties mentioned in any Section of this Act may be collected by a civil action in the name of the State of Montana in any court of com-

petent jurisdiction upon proper complaint being filed, and the amount of all fines and bonds collected under the provisions of this Act shall be paid to the State Treasurer and by him placed to the credit of the fish and game fund. All such fines, bonds and costs shall be collected without stay of execution, and the defendant, or defendants, may by order of the court be confined in the county jail of the county until such fine and costs are paid.

Paid to State Treasurer.

Section 11.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Repealing clause.

Section 12.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

When act takes effect.

Approved March 1, 1905.

CHAPTER 53.

An Act to Regulate the Sale of Irrigable State Lands Capable of Reclamation under any Canal, or Proposed Canal, or other Irrigation System of the National Government.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That for the purpose of co-operating with, and aiding in the construction of works by the United States Government for the irrigation and reclamation of arid lands, all lands now or hereafter owned by the State of Montana and designated as irrigable under any existing or proposed national irrigation system in Montana, shall be disposed of in farm unities (units), as fixed by the United States, and subject to all limitations and conditions of an Act of Congress entitled, "An Act Appropriating receipts from the Sale and Disposal of Public Lands in Certain states and Territories to the Construction of Irrigation works for the Reclamation of Arid Lands," approved January 17, 1902, and all Acts amendatory thereof, and no title to such lands shall pass from the State until such condi-

State lands may be disposed of in accordance with Act of Congress.

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tions and limitations have been complied with, nor until the purchaser shall produce evidence of the acquisition of the right to the use of water for the irrigation of such lands duly issued by the United States Government, and all such lands not sold prior to the time when water is ready for delivery from the works constructed by the United States shall from that time on be sold at the minimum price fixed by the Enabling Act of the State of Montana.

Land shall be conveyed by Board of Land Commissioners to United States.

Section 2. Any land now or hereafter owned by the State of Montana and needed for such irrigation and reclamation work shall, upon application made therefor to the State Board of Land Commissioners, be conveyed to the United States at the minimum price of ten dollars per acre, and there is hereby granted to the United States over all lands now or hereafter owned by the State of Montana a right of way for ditches, canals, tunnels, telephone and electric transmission lines now constructed, or to be constructed, by the United States Government in furtherance of the reclamation of arid lands, and that all conveyances of State lands shall contain a reservation of such right of way; provided, that before such right of way shall attach, and as a condition precedent thereto, the proper authorities of the government of the United States shall file with the Register of State Lands a map or plat of the Right of Way claimed for the ditch or canal, with reference to established section corners and minor survey divisions; and provided further, that any lessor, or other person, rightfully in possession of said lands shall be reimbursed by the National Government for actual damages by him sustained to improvements by him placed thereon, such damage to be determined by appraisement, as the State Board of Land Commissioners may direct.

Repealing clause.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 4. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feb'y 28th, 1905.

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CHAPTER 54.

An Act authorizing the Issuance of refunding bonds to the amount of Eighty Thousand Dollars ($80,000.00), for the purpose of redeeming and refunding at a lower rate of interest the one hundred thousand dollars of Montana Agricultural College Bonds heretofore issued under Sections 1630 to 1637 Inclusive, of the Political Code of Montana.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

State Board of Land Commissioners may issue refunding bonds.

The state Board of Land Commissioners of the State of Montana is hereby authorized to issue bonds to the amount of Eighty Thousand Dollars ($80,000.00), for the purpose of taking up and redeeming the issue of One Hundred Thousand Dollars Agricultural College Bonds heretofore issued under Sections 1630 to 1637, inclusive, of the Political Code of Montana, now outstanding, and redeemable July 1, 1905. The minimum denomination of such bonds shall be Two Hundred and Fifty Dollars, ($250.00), and the maximum shall be One Thousand Dollars ($1,000.00) each. Said bonds shall be known as the Montana Agricultural College refunding Bonds, to bear date July 1, 1905, to become due and payable twenty (20) years after date, and to be redeemable ten (10) years after date thereof. Said Bonds shall bear interest at a rate not to exceed five (5) per cent per annum, and as much lower as the State Board of Land Commissioners may decide, payable semi-annually on the first day of January and July of each year, and both principal and interest shall be payable at the office of the State Treasurer of Montana. Said Bonds shall run from the State Board of Land Commissioners of the State of Montana to bearer, and shall be signed by the State Board of Land Commissioners, and countersigned by the Secretary of State of Montana, who shall attach his seal thereto; provided, however, that nothing in this Act shall be so construed

Conditions of bonds.

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as to hold the State of Montana liable for the payment of said bonds or the interest thereon.

Section 2.

How sold.

The bonds provided for in the first Section of this Act shall be issued and sold at public or private sale as hereinafter provided, as soon as possible after the passage and approval of this Act.

Section 3.

What pledged for security to redeem bonds.

All funds arising from the sale, or leasing of the lands, interest on deferred payments, and licenses to cut trees thereon, (being fifty thousand acres) granted by the United States to the State of Montana, for the establishment and maintenance of an agricultural college, under and by virtue of the provisions of Section 17, of the Act of Congress, approved February 22, 1889, Entitled "An Act to provide for the division of Dakota into two States, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," are hereby pledged as security for the payment of the principal and interest of the bonds authorized by this Act, and all moneys or revenues derived from said lands, or any of them, whether on account of sales, leases, sale of timber, interest or otherwise, are hereby set apart and shall constitute a fund for the payment, as hereinafter provided, of the principal and interest of the said bonds, which refunding bonds shall be a first lien on said agricultural College bond Fund, after payment therefrom of said outstanding bonds as herein provided.

Section 4.

Moneys to be kept in separate fund.

It shall be the duty of the State Treasurer to keep all moneys derived from the Agricultural College Lands hereinbefore mentioned together with the proceeds of the sale of the bonds herein authorized to be issued, in a sparated fund, to be known and designated as the Agricultural College Bond Fund, and out of the money

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in such fund he shall pay, after approval by the State Board of Land Commissioners.

a. The principal and accrued interest on the said outstanding issue of One Hundred Thousand Dollars Agricultural College Bonds, for the purpose of taking up and redeeming said bonds as hereinafter provided.

b. The cost and expense of the issuing and sale of the bonds herein provided for.

c. The interest on the bonds herein authorized.

d. When such refunding bonds become redeemable he shall call in and pay them as rapidly as the money in such fund will permit, after providing for the interest. In the event that there shall not be sufficient in the Agricultural College Bond Fund to pay the interest when due, the State Board of Land Commissioners shall, by an order entered on their minutes, cause warrants to be issued on their Agricultural College Bond Fund for the amount of the interest due, and the warrants so issued shall bear interest at the rate of five (5) per cent per annum; said warrants shall be paid by the Treasurer as soon as sufficient money accumulates in said fund applicable thereto to pay the same, and by reason of the delivery of said warrants to the holders of said bonds in satisfaction of accrued interest, there shall be no default in the payment of the interest.

Section 5.

Advertise sale of bonds.

It shall be the duty of the State Treasurer to give notice by advertising for not less than two weeks daily in one newspaper published in the City of Helena, and one newspaper published in the city of New York, that he will, on the tenth day of April, 1905, sell the Eighty Thousand Dollars of refunding Bonds, hereby authorized and will receive bids therefor, and said bonds shall on said day be sold to the highest bidder, or to the person offering to take the same at the lowest rate of interest, as may be directed by the State Board of Land Commissioners. If no bids are then received, or if none are accepted, said bonds may be sold afterwards

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at private sale: Provided, that the said Board of Land Commissioners shall have the right to open, receive and examine all bids for said bonds, and in its discretion accept or reject the same, and provided, further, that none of said bonds shall at any time be sold for less than par.

Section 6.

Moneys placed in Agricultural College bond fund.

The moneys derived from the sale of said refunding bonds shall be placed in the agricultural College Bond Fund, out of which shall be paid the principal and interest necessary to take up and redeem the issue of One Hundred Thousand Dollars ($100,000.00) of Montana Agricultural College bonds authorized by Section 1630 to 1637 Political Code of Montana, now outstanding, redeemable July 1, 1905. It shall be the duty of the State Treasurer to give notice to the owners, so far as known, of the said Montana Agricultural College Bonds authorized by Section 1630 to 1637, inclusive, Political Code, that he will, on the first day of July, 1905, pay the principal and accrued interest on the said bonds, and that interest will cease from and after the said date; and said treasurer shall on said date pay, take up, redeem, and, under the direction of the State Board of Land Commissioners shall cancel said bonds. If by reason of delay in selling the said bonds authorized by this Act, the money shall not be available on the first day of July, 1905, the State Treasurer shall call for, take up, redeem and cancel the said Montana Agricultural College Bonds at the earliest date practicable after such money shall be available.

Outstanding bonds paid.

Section 7.

Repealing clause.

All Acts or parts of Acts in conflict herewith are hereby repealed.

Section 8.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 1, 1905.

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CHAPTER 55.

"An Act to Amend Section 1000 of the Civil Code of the State of Montana."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 1000 of Civil Code amended.

That Section 1000 of the Civil Code of the State of Montana, be and the same is hereby amended so as to read as follows:

Section 1000.

Telegraph, telephone and other corporations.

A telegraph, telephone, electric light or electric power-line corporation, or a person owning or operating such, is hereby authorized to construct such telegraph, telephone, electric light, or electric power-line or power lines; from point to point along and upon any of the public roads and highways of the State of Montana, by the erection of necessary fixtures, including posts, piers and abuttments necessary for the wires; but the same shall be so constructed as not to incommode or endanger the public in the use of said roads or highways: Provided, however, that the provisions of this Act shall not apply to public roads and highways within the limits of incorporated cities or towns.

Section 2.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 2, 1905.

CHAPTER 56.

An Act requiring State Officers, Officials and Persons in charge of State Institutions other than Educational to make out semi-annual reports of property in their charge and file same, and providing penalties for failure to do so.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

It shall be the duty of every State Officer or official,

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and the person in charge of every State Institution, other than educational to make out and file with the Secretary of State semi-annual reports of all property belonging to the State, in his possession, the first report showing the amount of all kinds of property on hand and each subsequent report showing balance on hand last report, amount received or purchased, amount used, broken or destroyed, and balance on hand.

State officers and officials to make report of property belonging to State.

Section 2.

It shall be the duty of the Secretary of State to provide blanks for property reports by State officers or officials, and for Boards of Trustees or Managers to provide Blanks for property reports of the institutions of which they have charge.

Secretary of State to provide blanks.

Section 3.

Failure to comply with the provisions of this Act shall constitute a misdemeanor and shall be punished by a fine of not less than Five (5) nor more than Twenty-five (25) Dollars.

Misdemeanor.

Penalty.

Section 4.

This Act shall be in force and effect from and after its passage and approval.

When act takes effect.

Approved March 2, 1905.

CHAPTER 57.

An Act to Repeal Sections 15, 19, 20, 21, 22 and 23 of an Act Entitled "An Act to Repeal Sections 3100, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113 and 3114 of the Political Code of the State of Montana, and to Provide for the Appointment of a State Game and Fish Warden, Deputy Game and Fish Wardens and Special Deputy Game and Fish Wardens and Defining their powers and duties and Providing for their compensation," approved March 18th, 1901, and to Provide for the Licensing of resident and non-resident sportsmen and hunters; to Fix Prices on shipping permits; to Furnish the State Game and Fish Warden with a

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clerk; to Classify packers as guides; to Provide for the Disposition of moneys in the Fish and Game Fund; and to Provide Penalties for the Violation of the provisions of this Act.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Certain sections of Political Code repealed.

That Section 15 of an Act Entitled "An Act to Repeal Sections 3100, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113 and 3114 of the Political Code of the State of Montana, and to Provide for the Appointment of a State Game and Fish Warden, Deputy Game and Fish Wardens and Special Deputy Game and Fish Wardens and Defining their powers and duties, and Providing for their compensation," approved March 18th, 1901, which Section reads as follows: "The Board of County Commissioners of each county at the time of levying the annual tax, must levy a tax of one-tenth of a mill (1-10) on the dollar upon the asssessed valuation of all property in their respective counties, which must be collected as other taxes upon like property and when so collected must be paid to the State Treasurer, who must place the same in the Fish and Game Fund, which money, together with other money placed into the Fish and Game Fund must be used in defraying the salaries and expenses provided for in this Act," be and the same is hereby repealed.

Section 2.

Certain sections of Political Code repealed.

That Sections 19, 20, 21, 22 and 23 of the said Act be, and the same are hereby repealed.

Section 3.

Sportsman's license.

It shall be unlawful for any male person or persons over 15 years of age to hunt or fish within this State until a license is first procured as provided for in this Act, which license must be produced upon the request of any Game Warden or Peace Officer for inspection. The possession of a gun or rod in the fields, or in the forests, or on or about the waters of this State by any

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non-resident of this State without first securing the license required by this Act, shall be prima facie evidence of the violation of its provisions, and any Game Warden or Peace Officer has the right to arrest any such party or parties without a warrant.

Section 4.

Resident's license.

Every person who is a bona fide resident of the State of Montana, and who desires to hunt, take, kill, or catch any of the game animals, game birds or fish of this State, must first obtain a license therefor of the State Game and Fish Warden, Deputy Game and Fish Warden, or a Justice-of-the-Peace, which license shall be issued upon blanks furnished by the State Game and Fish Warden as hereinafter provided for. Said license shall certify that the licensee is a bona fide resident of the State of Montana, and shall contain a complete description of the licensee, together with his age, business, residence, and post office address, and shall grant to such licensee permission to hunt, take, kill, catch or have in possession, any of the game animals, game birds or fish of this State at a time and in a manner not prohibited by law. Every applicant for such license must prove to the officer issuing such license that he is a bona fide resident of this State as required by Section 7 of this Act, and if requested by the officer, must bring one witness who is known to said officer, which witness must make affidavit that the applicant is a bona fide resident of this State within the meaning and requirements of Section 7 of this Act. Every applicant for such resident's license must upon applying for the same pay to the officer issuing such license the sum of One ($1.00) Dollar, and said applicant must place his signature in ink upon such license in a place designated by the officer issuing the same, and must be made in the presence of such officer. Any resident who shall hunt, take, kill, or catch any game or fish, or any part thereof, without being at the time in possession of a resident's license as provided for in this Act, shall be punished by a fine of not less than Twen-

What license shall contain.

Fee for license.

Penalty.

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ty-five Dollars nor more than One Hundred Dollars, or by imprisonment in the county jail for a term of not less than thirty nor more than ninety days, or by both such fine and imprisonment; provided, however, that nothing in this Act shall prevent a bona fide resident of this State from hunting in his own field during the open season, or fishing in the waters running through same or adjacent thereto, without first obtaining a license therefor; provided further, that a license under the provisions of this Act issued to the head of a family shall include therein all female members of his family, as well as all male members thereof under 21 years of age.

Hunting or fishing on own premises.

License to head of family includes all females and males under 21

Section 5.

Any Justice-of-the-Peace issuing any resident license as above mentioned, may retain as his fee ten (.10) cents out of each dollar so collected, and the balance of all moneys so collected shall be sent by him to the State Treasurer monthly, namely, on the last day of each month, and he shall forward to the State Game and Fish Warden at the same time a notice of the amount sent to the State treasurer. It is hereby made the duty of all qualified and acting Justices-of-the-Peace in the State of Montana to issue said resident licenses and their bondsmen are hereby held responsible for all moneys so collected. Any Justice-of-the-Peace who shall refuse to comply with any of the provisions of Sections 4, 5 and 9 of this Act, shall be guilty of a misdemeanor and shall be fined the sum of One Hundred Dollars.

Justice of Peace to report fees collected to State Treasurer.

Misdemeanor

Section 6.

Every person who is not a bona fide resident of this State, and who desires to hunt, take, kill, catch or have in his possession any of the game animals, game birds, or fish of this State, must first obtain a license therefor of the State Game and Fish Warden or a Deputy Game and Fish Warden.

Non-resident's license.

Said license shall certify that the licensee is a non-resident of this State, and shall contain a complete

What license to contain.

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description of the licensee, together with his age, business, residence, and post office address, and shall grant to him permission to hunt, take, kill, catch or have in his possession, any game animals, game birds or fish of this State at a time and in a manner not prohibited by law. Every applicant for such license shall, upon applying for the same, state his occupation, residence and post office address, and shall place his signature in ink upon such license in a place designated by the officer issuing the same, which signature must be made in the presence of such officer. The applicant shall pay the State Game and Fish Warden or Deputy issuing the license, the sum of Twenty-five ($25.00) Dollars for a "General License", which shall entitle the holder to hunt large or big game, small and feathered game, and to fish; or the sum of Ten ($10.00) Dollars for a "Limited License," which shall entitle the holder only to hunt small and feathered game and to fish. Any non-resident of this State who shall hunt, take, kill, catch, or have in his possession, any of the game animals, game birds or fish of this State, or any part thereof, without having taken out and being at the time in possession of a non-resident's license as provided for in this Act, and in the case of large or big game, being entitled by virtue of the same to hunt for large or big game, shall be punished by a fine of not less than Fifty Dollars or more than Five Hundred Dollars, or by imprisonment in the county jail not less than one month or in the state prison more than one year, or by both such fine and imprisonment.

General license.

Limited license.

Penalty.

Section 7.

To be a bona fide resident under and within the meaning of this Act, a person must have resided in this State for the six months last past, when applying for his license; provided, however, that all soldiers of the United States Army stationed at any post or fort in Montana shall come under and within the provisions of this Section.

Who are residents.

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Section 8.

When licenses expire.

All licenses shall expire on the 31st day of December next after their issuance, and shall be non-transferable. Any person who shall at any time alter, or change, or loan, or transfer to another, or have in his possession while hunting, or fishing the license issued to another, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than Fifty Dollars nor more than Two Hundred Dollars, or by imprisonment in the county jail for a term not less than thirty days nor more than ninety days, or by both such fine and imprisonment. If any Game Warden or other Peace Officer has reason to believe that a license is in the hands of a person other than the lawful licensee, such officer may require such party having the license to identify himself, and any such person refusing on such demand to identify himself, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty Dollars nor more than One Hundred Dollars or by imprisonment in the county jail not less than thirty days or more than ninety days or by both such fine and imprisonment.

Misdemeanor.

Misdemeanor.

Section 9.

State Game and Fish Warden to provide blanks.

The State Game and Fish Warden shall have all licenses printed in the proper form. He shall provide at least one acting and qualified Justice-of-the-Peace in each township of the State with blanks for issuing resident licenses, and shall furnish his Deputies with such blanks. All licenses shall be in books of twenty licenses each, with stubs fastened in the book, and the licenses shall be in duplicate; the stub, duplicate and original shall contain the same number and the same description. When issuing the same all three must be made out and signed by the officer issuing the license, the "Original" shall be given to the licensee, the "Duplicate" sent immediately to the State Game and Fish Warden, and by him placed on file, and the "Stub" left in the book, and on the 31st day of December of each year all stubs, spoiled and unused licenses remain-

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ing intact in the books shall be sent to the State Game and Fish Warden to be checked and credited.

The State Game and Fish Warden shall charge all Justices-of-the-Peace and Deputies with all licenses furnished them and shall credit their respective accounts with all licenses returned by them which are unused and intact in the books, and he shall after the first day of January in each year check his accounts with those of the State Treasurer. All Justices-of-the-Peace and Deputy Game Wardens shall be held responsible for all licenses issued them. All licenses of each kind shall each year be numbered consecutively, beginning with the number one (1). All licenses must be signed by the officer issuing the same. All moneys collected by Deputy Game Wardens shall be sent to the State Game and Fish Warden and receipted for by him and he shall turn the same over to the State Treasurer with other moneys collected by him as prescribed by law.

Justices and Deputy Game Wardens held responsible for licenses issued to them.

Section 10.

The State Game and Fish Warden shall hereafter make a charge of Fifty (50) Cents for each and every shipping permit issued by him for the shipment of game or parts thereof out of the State. All money so received shall be turned over by him to the State Treasurer at the time and in the manner prescribed by law and the State Treasurer shall place such money to the credit of the Fish and Game Fund.

Shipping permits.

Section 11.

The State Game and Fish Warden shall have the right to employ an office clerk at a salary of Fifty Dollars per month, and said clerk shall be paid monthly by warrant drawn on the Fish and Game Fund by the State Auditor in the same manner as for the salary of Deputy State Game and Fish Wardens.

Office Clerk of State Game and Fish Warden.

Section 12.

Any person who shall engage in the business of packing for hunting parties, as the term is commonly understood, or who shall for pay, accompany such party as guide, packer or cook shall be considered a guide and

Who considered guides.

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shall come within the requirements provided for in Sections 10, 11, 13 and 14 of Senate Bill No. 30, approved February 21st, 1903, provided, however, that it shall be necessary only for one of the persons above named, with each and every hunting party, to have fulfilled the requirements of this Section.

Section 13.

State Treasurer to keep moneys now in Game and Fish Fund for payment of salaries, etc.

The State Treasurer is hereby directed to keep all moneys now in the Fish and Game Fund and all moneys placed hereafter in such fund for the payment only of the salaries and other expenses incurred by the Game and Fish Warden's Department.

Section 14.

Repealing clause.

All Acts and parts of Acts in conflict with this Act or any of the provisions thereof are hereby repealed.

Section 15.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Filed March 2d, 1905.

Note by the Secretary of State:

Became a law without approval of the Governor.

The foregoing Act having been presented to the Governor for his approval and not having been returned by him to the House in which it originated within the time prescribed by the Constitution, has become a law without his approval.

A. N. YODER,
Secretary of State.

CHAPTER 58.

An Act to authorize the organization of Mutual Hail and Fire insurance companies.

Be it Enacted by the Legislative Assembly of the State of Montana.

Section 1.

Incorporation of companies for insurance of growing crops.

That any number of persons, not less than one-hundred, residing in this State, who, collectively, shall own not less than five thousand acres of grain which they desire to have insured, may form an incorporated com-

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pany for the purpose of mutual insurance of growing crops against loss or damage by hail, and farm improvements by fire.

Section 2.

How company formed.

Such persons shall file with the State Auditor a declaration of their intention to form a company for the purposes expressed in the preceding section, which declaration shall be signed by at least one hundred incorporators; and shall be accompanied by a copy of the proposed articles of incorporation, subscribed by three or more persons and acknowledged by each before some person authorized to take and certify acknowledgments of conveyance of real property, in which must be stated the name or title by which such corporation or company shall be known in law, the location of its principal business office, which office must be located in this State, the name and residence of the incorporators, the object of the corporation, with its plan of doing business clearly and fully defined, the number of its directors and the names of those elected to serve until its first annual meeting, which articles of incorporation shall be by the State Auditor submitted to the Attorney General for examination, and if such articles shall be found by the Attorney General to be in accordance with the provisions of this Chapter, and not in conflict with the constitution and laws of the United States or of this State, he shall make a certificate of the fact and return it to the State Auditor, who shall reject the name or title applied for by any persons when he shall deem the same so similar to one already appropriated by another company or corporation as to be likely to mislead the public. When the articles of incorporation shall have received the approval of the Attorney General and the State Auditor, the Auditor must deliver the same to said incorporators, with such approval, and the same must be filed, recorded and certified as required by Section 406 of the Civil Code of the State of Montana.

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Section 3.

Number of directors.

The number of directors shall not exceed seven, the majority of whom shall constitute a quorum to do business, to be elected by the members by ballot, and they shall hold their offices until their successors are elected and qualified.

Section 4.

Officers.

The policy holders shall elect from their number a President, a Vice-President and Treasurer, and shall also elect a Secretary, who may or may not be a member of the company, all of whom shall hold their offices for one year and until their successors are elected and qualified.

Section 5.

Bond of officers.

The Treasurer and Secretary shall each give bonds to the company for the faithful performance of their duties, in such amounts as shall be prescribed by the Board of directors.

Section 6.

Powers of corporation and directors.

Such corporation and its directors shall possess the usual powers and be subject to the usual duties of corporations and directors thereof, and may make such by-laws, not inconsistent with the constitution or this Act, as may be deemed necessary for the management of its affairs in accordance with the provisions of this Act, and may prescribe the duties of its officers and fix their compensation, and may alter and amend its by-laws when necessary.

Section 7.

Who may become member of company.

Any person owning property in this State, insurable under this Act, may become a member of this company, by insuring therein and not otherwise, and shall be entitled to all the rights and privileges pertaining thereto. The membership in such company shall consist of the persons insuring therein, provided that such number shall never be less than the number required by Section 1 of this Act for the purposes of incorporation.

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Section 8.

Such company may issue policies only on growing crops, against loss or damage by hail, and on farm improvements against loss by fire. All persons so insured shall make applications in writing and give their obligations to the company for the payment of losses and expenses as shall be required by the by-laws of said company. The liability of the members may be limited by the by-laws of such company; Provided, that in case the whole amount of such obligation shall be insufficient to pay all losses sustained after necessary expenses in any year, then sufferers insured by such company shall receive their proportionate share of the funds realized from such obligation in full satisfaction of such losses, and no member shall ever be called on to pay more than the full amount of his obligation.

Policies.

Applications.

Liability of members.

Section 9.

Every member of such company who may sustain loss or damage by hail or fire shall immediately notify the Secretary thereof, stating the amount of damage or loss claimed, then the person or persons authorized by the by-laws of such company to adjust losses, shall proceed to ascertain the amount of such loss or damage and adjust the same.

Duty of insured in case of loss.

If there is a failure of the parties to agree upon the amount of such damage or loss, the same shall be submitted to three persons as committee of reference, one of whom shall be selected by the claimant, one by the company and the third by such two persons, who shall be sworn to a faithful and impartial investigation, and award as may be provided for by the by-laws of said company, who shall have authority to examine witnesses and determine all matters in dispute, and shall make their award in writing to the Secretary of the company, and such award shall be final, unless either party to the action shall appeal to the court within thirty days after such award: Provided, such final award shall not be made before the time for the maturity of said crop, or loss by fire. The pay of the

How damage fixed.

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membership of such committee shall be two dollars per day for each day of service so rendered in the discharge of their duties, which shall be paid by the claimant unless the award of such committee shall exceed the sum offered by the company in liquidation of such loss or damage, in which case said expense shall be paid by the company.

Section 10.

When obligations due.

All obligations shall be due at such a time as the company in its by-laws provide, and losses shall not be due and payable until thirty days after said obligations are due and payable. Provided, that it shall be the duty of such company to use due diligence in the collection of such obligation.

Section 11.

Suits may be brought against member of company.

Suits at law may be brought against any member of such company who shall neglect or refuse to pay any obligation given by him or her according to the provisions of this act, and the directors or officers of any company so formed who shall wilfully refuse or neglect to perform the duties imposed upon them by the provisions of this act, shall be liable in their individual capacity to the person sustaining such loss. Suit at law may also be brought and maintained against any such company by members thereof for losses sustained if payment is withheld after such losses become due.

Section 12.

Secretary to prepare annual statement.

It shall be the duty of the Secretary to prepare an annual statement showing the condition of such company and the business transacted the preceding year, and present the same at the annual meeting, and file a verified copy of same with the state auditor as provided by law.

Section 13.

Members may withdraw.

Any member of such company may withdraw therefrom by surrendering his policy for cancellation and paying all obligation for the year's insurance. Provided, that the company shall have power to cancel the certificate of any member for good and sufficient cause

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by giving the insured notice to that effect, and not otherwise.

Section 14.

Statement may be filed with State Auditor.

It shall be the duty of the President, Vice-President and Secretary of every such company, on the 1st day of January, each year, or within a month thereafter, to prepare under their own oath and transmit to the state Auditor a statement of the condition of the company on the last day of the month preceding, in such form as the law may direct. If, upon examination, he is of the opinion that such company is doing business correctly, in accordance with the provisions of this Act, he shall thereupon furnish the company a certificate which shall be deemed authority to continue business the ensuing year. For such examination and certificate of approval, the company shall pay to the State Auditor, Ten (10.00) dollars; for agent's certificate of authority, five ($5.00) dollars; and for filing annual statement, twenty-five ($25.00) dollars; all of which shall be paid into the State Treasury and applied to the general fund.

Certificate.

Fee for certificate.

Section 15.

When act takes effect.

This Act shall take effect and be in force from and after its passage and approval.

Approved March 2, 1905.

CHAPTER 59.

An Act to Amend Section 1020 of Chapter II, Title VIII, Part II, of the Code of Civil Procedure of Montana, and Providing for the Entry of Judgment upon Failure to Answer, to Demur, to Appear or to Challenge the Jurisdiction of the Court.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 1020 of Civil Code amended.

That Section 1020 of Chapter II, Title VIII, Part II, of the Code of Civil Procedure be and the same is hereby amended to read as follows:

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Judgment.

Section 1020. Judgment may be had, if the defendant fail to Answer the complaint or to challenge the jurisdiction of the Court as follows:—

Judgment.

1. In an action arising upon contract for the recovery of money or damages only, if no Answer, demurrer, motion or special appearance, coupled with a motion has been filed with the Clerk of the Court within the time specified in the summons, or such further time as may have been granted, or no motion to quash or set aside the service of summons, or to Challenge the Jurisdiction of the Court has been made and filed, the Clerk upon application of the plaintiff, must enter the default of the defendant, and immediately thereafter enter judgment for the amount specified in the complaint, including the costs, against the defendant or against one or more of several defendants, in the cases provided for in Section 641.

2. In other actions, if no answer demurrer, motion, or special appearance, coupled with a motion has been filed with the Clerk of the Court within the time specified in the summons or such further time as may have been granted, or within twenty days after a motion to quash or set aside the service of summons, or any motion challenging the jurisdiction of the court, has been denied, the clerk must enter the default of the defendant; and thereafter the plaintiff may apply for the relief demanded in the complaint. If the taking of an account or the proof of any fact is necessary to enable the court to give judgment, or to carry the judgment into effect, the court may take the account or hear the proof; or may in its discretion order a reference for that purpose. And where the action is for the recovery of damages, in whole or in part, the Court may order the damages to be assessed by a jury; or if to determine the amount of damages, the examination of a long account be involved, by a reference, as above provided.

3. In an action where the service of summons was by publication, the plaintiff, upon the expiration of the time for Answering, may, upon proof of the pub-

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lication, and that no answer or motion to quash or set aside the service of summons, or motion to challenge the Jurisdiction of the Court has been filed, apply for judgment; and the Court must thereupon require proof to be made of the demand mentioned in the complaint; and if the defendant be not a resident of the State, must require the plaintiff, or his agent, to be examined on oath, respecting any payments that may have been made to the plaintiff or to anyone for his use on account of such demand, and may render judgment for the amount for which he is entitled to recover. Judgment.

Section 2.

All Acts and parts of Acts in conflict herewith are hereby repealed. Repealing clause.

Section 3.

This Act shall be in full force and effect from and after its passage and approval by the Governor. When act takes effect.

Approved March 2, 1905.

CHAPTER 60.

An Act to amend Section 1903 of the Political Code of the State of Montana, as amended by Senate Bill No. 44, Session of 1897, relating to the attendance of Teachers at Institutes, and the duties of School Trustees in the matter of closing their schools during the session of the County Institute for teachers.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That Section 1903 of the Political Code of the State of Montana, be, and the same is hereby amended so as to read as follows: Section 1903 of Political Code amended.

Section 1903. When the County Superintendent, after conference with the State Superintendent, has appointed a time for holding the Teacher's Institute in his county, it shall be his duty to give written notice of the time and place of holding such Institute to every Board of School Trustees within his county, and to all Teachers' institute.

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the teachers of the county, at least thirty days before the opening of such Institute.

Duty of school trustees

It shall be the duty of all Boards of School Trustees through their clerks, to notify each and all of the teachers within their districts of the time and place of holding the Institute and to direct each and all of their teachers to close their several schools for the purpose of attending the Institute.

Teacher to attend institute.

Each and every teacher engaged in teaching a term of school in any district during the time of the Institute shall close his or her school during such time and shall attend the Institute and take active part in the same without loss of salary for the actual time spent in attending the Institute and for the actual time spent in going to and returning from the same.

County Superintendent to keep record.

The County Superintendent shall in all cases keep and preserve a record of the actual time spent by each teacher of his or her county at the Institute and shall furnish both to each teacher and to his Board of School Trustees a certificate of the time spent by said teachers at the Institute. Wilful failure on the part of any teacher to attend the Institute shall be considered sufficient cause for the revocation of such teacher's certificate by the County Superintendent; provided, however, that the County Superintendent may, in his discretion, excuse any teacher from attending the Institute who could not attend same without great and excessive inconvenience, cost, expense, and loss of time. Wilful failure on the part of the Board of School Trustees of any school district to close their schools, during the time of the holding of the Institute as herein required. shall be considered sufficient cause for withholding the public moneys to which such district would otherwise be entitled; provided, however, that, in the case of Boards of School Trustees as in the case of teachers the great distance of any school district from the place of holding the Institute, excessive loss of time, inconvenience, and cost, shall be considered good grounds on which the County Superinten-

Failure to attend institute cause for revocation of certificate.

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dent, under authority and direction from the State Superintendent, may excuse any Board of School Trustees from closing their school at such times and from observing the above requirements.

Section 2.

All high school teachers are hereby exempt from the requirements of this Act. High school teachers exempt.

Section 3.

All Acts and parts of Acts in conflict herewith are hereby repealed. Repealing clause.

Section 4.

This Act shall be in full force and effect from and after its passage and approval by the Governor. When act takes effect.

Approved March 2, 1905.

CHAPTER 61.

An Act for the submitting to the qualified electors of the State of Montana, an amendment to Article V, of the Constitution of the State of Montana, relating to the Legislative Department, and providing for Direct Legislation and Reference of Laws.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

There shall be submitted to the qualified electors of the State of Montana, at the next general election, the following amendment to Section I, Article V, of the Constitution of the State of Montana: Constitutional amendment to be submitted to electors.

That Section I, Article V, of the Constitution be, and the same is hereby amended so as to read as follows:

Section 1. The Legislative Authority of the State shall be vested in a Legislative Assembly, consisting of a Senate and House of Representatives; but the people reserve to themselves power to propose laws, and to enact or reject the same at the polls, except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumer- Provisions of Section 1 as amended.

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ated in Article V, Section 26, of this Constitution, independent of the Legislative Assembly; and also reserve power at their own option, to approve or reject at the polls, any Act of the Legislative Assembly, except as to laws necessary for the immediate preservation of the Public peace, health or safety, and except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in Article V, Section 26, of this Constitution. The first power reserved by the people is the Initiative and eight per cent of the legal voters of the State shall be required to propose any measure by petition; provided, that two-fifths of the whole number of the Counties of the State must each furnish as signers of said petition eight per cent of the legal voters in such county, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the Secretary of State, not less than four months before the election at which they are to be voted upon.

Two-fifths of counties necessary.

Referendum.

The second power is the Referendum, and it may be ordered either by petition signed by five per cent of the legal voters of the State; provided, that two-fifths of the whole number of the counties of the State must each furnish as signers of said petition five per cent of the legal voters in such county, or, by the Legislative Assembly as other Bills are enacted.

Petitions.

Referendum petitions shall be filed with the Secretary of State, not later than six months after the final adjournment of the Session of the Legislative Assembly which passed the Bill on which the Referendum is demanded. The veto power of the Governor shall not extend to measures referred to the people by the Legislative Assembly or by Initiative Referendum petitions.

All elections on measures referred to the people of the State shall be had at the biennial regular general election, except when the Legislative Assembly, by a majority vote, shall order a special election. Any meas-

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ure referred to the people shall still be in full force and effect unless such petition be signed by fifteen per cent of the legal voters of a majority of the whole number of the counties of the State, in which case the law shall be inoperative until such time as it shall be passed upon at an election, and the result has been determined and declared as provided by law. The whole number of votes cast for Governor at the regular election last preceding the filing of any petition for the Initiative or Referendum, shall be the basis on which the number of the legal petitions and orders for the Initiative and for the Referendum shall be filed with the Secretary of State; and in submitting the same to the people, he, and all other officers, shall be guided by the General laws and the Act submitting this amendment, until Legislation shall be especially provided therefor. The enacting clause of every law originated by the Initiative shall be as follows:

Number of votes cast for Governor basis for petition.

"Be it enacted by the People of Montana:"

This Section shall not be construed to deprive any member of the Legislative Assembly of the right to introduce any measure.

Enacting clause.

Section 2.

That separate Official Ballots be used at the general election, to be held in November, 1906, and shall have printed thereon the words: "For the Amendment to the Constitution providing for Direct Legislation and Reference of Laws," and the words, "Against the Amendment to the Constitution providing for Direct Legislation and Reference of Laws."

What official ballots at general election of 1906 to contain.

It shall be the duty of the Legislative Assembly to enact Legislation suitable for carrying this amendment into effect.

Section 3.

All Acts or parts of Acts in conflict with this Act are hereby repealed.

Repealing clause.

Section 4.

This Act shall take effect and be in full force from and after its passage and approval by the Governor.

When act takes effect.

Approved March 2, 1905.

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CHAPTER 62.

"An Act to amend Section 5039 of the Political Code of the State of Montana, relating to the establishment and maintenance of free Public Libraries, as amended by an Act of the Fifth Legislative Assembly of Montana, Approved March 3rd, 1897."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 5039 of Political Code amended.

That Section 5039 of the Political Code of the State of Montana, as amended by an Act of the Fifth Legislative Assembly of the State of Montana, approved March 3rd, 1897, be amended so as to read as follows:

Section 5039.

Free public library.

The council has power to establish and maintain a free public library, and for that purpose may provide by ordinance for a tax as follows:

Tax for library.

In a city or town having an assessed valuation of one million dollars or more, a tax not exceeding two mills on the dollar on the property may be levied. In a city or town having an assessed valuation of less than One million dollars and more than Seven-Hundred and fifty-thousand dollars, a tax not exceeding two and one-half mills on the dollar on the property may be levied. In a city or town having an assessed valuation of less than Seven hundred and fifty thousand dollars, a tax not exceeding three mills on the dollar on the property may be levied. The tax so levied and collected constitutes a fund known as the "Library Fund", and must be expended only for the purchase of books and other things necessary for a library, and the support and maintenance thereof. Provided, that no increase over the present authorized levy shall be made until the question of such increase has first been submitted to a vote of the tax-payers affected thereby.

"Library Fund."

Section 2.

Repealing clause.

All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

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Section 3.

This Act shall be in full force and effect from and after its passage and approval by the Governor. When act takes effect.

Approved March 2, 1905.

CHAPTER 63.

"An Act to prevent and punish the desecration of the flag of the United States."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That any person who in any manner for exhibition or display, shall place or cause to be placed any word, figure, mark, picture, design, drawing, or any advertisement of any nature upon any flag, standard, color, or ensign of the United States of America, or shall expose, or cause to be exposed to public view any such flag, standard, color, or ensign upon which shall be printed, painted, or otherwise placed, or to which shall be attached, appended, affixed, or annexed, any word, figure, mark, picture, design, or drawing, or any advertisement of any nature, or who shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale, or to give away or for use for any purpose, any article or substance, being any article of merchandise or receptacle of merchandise, upon which shall have been printed, painted, attached, or otherwise placed, a representation of any such flag, standard, color, or ensign to advertise, call attention to, decorate, mark, or distinguish the article or substance on which so placed, or who shall publicly mutilate, defile, or defy, trample upon, or cast contempt upon, either by words or act, upon any such flag, standard, color or ensign shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars, or by imprisonment for not more than thirty days, or both in the discretion of the court. Defacing Flag, etc. Penalty.

Section 2.

What words flag, etc., include.

That the words flag, standard, color or ensign, as used in this act, shall include any flag, standard, color, ensign, or any picture or representation of either thereof, made of any substance or represented on any substance, and of any size evidently purporting to be said flag, standard, color, or ensign of the United States of America, or a picture, or representation or either thereof, upon which shall be shown the colors, the stars, and the stripes in any number of either thereof, or by which the person seeing the same without deliberation may believe the same to represent the flag, color, standard or ensign of the United States of America.

Section 3.

Not to apply to act permitted by statutes of United States, etc.

That this act shall not apply to any act permitted by the Statutes of the United States of America, or by the United States Army and Navy regulations, nor shall it be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant, or commission of appointment to office, ornamental picture, or stationery for use in correspondence, on any of which shall be printed, painted, or placed said flag, disconnected from any advertisement.

Section 4.

When act takes effect.

That this Act shall take effect immediately.

Approved March 2, 1905.

CHAPTER 64.

An Act to Authorize the Appointment of a Commissioner for the Measurement and Division of Water under Decree of Court in Certain Cases, and Prescribing His Duties and Compensation.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Water Commissioner.

Whenever the water rights pertaining to any stream or water system within the State of Montana have been determined by a decree of a competent court, it shall

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be the duty of the District Judge of the District within which such water rights are situated, upon the application of the owners of at least twenty five per cent. of the water rights affected by such decree, to appoint a Commissioner, who shall have the authority to measure and distribute to the parties interested under such decree the waters to which they are entitled, according to their priority as established by such decree; provided, however, that upon the application of the owners of at least fifty-one per cent. of the water rights in any ditch or single water system affected by such decree, a Commissioner shall be appointed who shall have authority to measure and distribute to the parties interested under such decree, the waters to which they are entitled, as heretofore provided, and in addition shall have the authority to keep in reasonable repair and maintain such water ditch or water system at the expense of the owners thereof; and for each of the purposes above set forth such Commissioner or Commissioners shall have authority to enter upon any ditch, canal, aqueduct, or other source for conveying the waters affected by such decree, and to visit, inspect and adjust all head gates, or other means of distribution of such waters, and shall have the same power as a sheriff or constable to arrest any or all persons interfering with the distribution made by him, and to take such person so arrested before the Judge of the District Court for trial for contempt of the decree of said Court.

Authority of Commissioner.

Section 2.

Such Water Commissioner, so appointed, shall hold his office for such time during the irrigating season of each year as may be designated by the Judge, in the order making such appointment, provided, that said Judge may in his discretion, at any time, change the time for the closing of such service of such commissioner.

Term of office.

Section 3.

The Water Commissioner, so appointed by the Court,

Oath.

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shall take and subscribe and file with the Clerk of the District Court, an oath of office, before commencing the discharge of his duties as such commissioner.

Section 4.

Complaint of persons aggrieved.

Any person owning any of the waters of such stream, who is dissatisfied with the method of distribution of the waters of such stream by such Water Commissioner, and who claims to be entitled to more water than he is receiving, or is entitled to a prior right than that allowed him by such Commissioner, may file his written complaint, duly verified, setting forth the facts of such claim. Thereupon the Judge shall fix a time for the hearing of such petition and shall direct that notice be given to the parties interested in such hearing, as the Judge may deem necessary. At the time fixed for such hearing, the Judge of said District Court must hear and examine the complainant and such other parties as may appear to support or resist such claim, and also examine such Water Commissioner and witnesses as to the charges contained in said complaint. Upon the determination of such hearing, the Judge shall make such findings and order as said Judge may deem just and proper in the premises. If it shall appear to such Judge that the Water Commissioner has not properly distributed the water according to the provisions of such decree, then the Judge shall give the proper instructions for such distribution. The Judge may remove such Water Commissioner and appoint some other person in his stead, if he deems that the interests of the parties in the waters mentioned in such decree will be best subserved thereby, and if it shall appear to such Judge that the said Water Commissioner has wilfully failed to perform his duties, he may adjudge on said hearing said Water Commissioner guilty of a contempt of the Court and punish him as for a contempt. The Judge shall make such order as to the payment of costs of such hearing as may appear to him to be just and proper.

Day fixed for hearing.

Hearing.

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Section 5.

Such Water Commissioner must keep a daily record of the amount of water distributed to each water user and must file a summary of such record with the Clerk of the Court at the close of his term of service, showing in detail, the total amount of water distributed to each water user during such season. Thereupon the Judge shall make an order apportioning the total amount of the fees and compensation allowed to such Commissioner, and charge the same proportionately to the persons using water during each season, according to the number of inches of water used by such persons; and said Water Commissioner shall also file a statement of the amount necessarily incurred and expended by him in the repair of any water ditches, and making of any head gates or dams necessary for the distribution of such waters, and which said expense shall be assessed against and paid by the party or parties for whom such services in the repair of such ditch or ditches, and the making of any dams or head gates where necessary. And the Judge shall in the order fixing the amount to be paid by each water user also fix the amount to be paid for the services and expenses last herein mentioned. Upon the filing of such report by the Water Commissioner, the Clerk of the Court, as above provided for, shall notify each person mentioned in such report, by mail, that objections to such report may be made by any persons objecting thereto within thirty days after the filing of such report, and unless such objections are filed, the report will be approved by the Judge of the Court. At any time during said thirty days, any person objecting to such report may make a motion to retax such costs, and the Judge may hear and determine such motion and make such orders in reference thereto, as in the re-taxation of costs in other cases.

Commissioner to keep daily record.

Judge to apportion fees.

Objections may be made to report.

Section 6.

At the time of the appointment of such Water Commissioners, his fees and compensation must be fixed by

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an order of the Judge of such Court, and the Judge may also allow as a charge, any expenses necessarily incurred by said Water Commissioner in the discharge of his duties, in the employment of extra labor for the repair of dams, head gates, ditches or flumes, when immediate action is necessary to preserve the rights of the parties entitled to the waters of such stream, or when the Judge has, in his order appointing such Commissioner, required such Commissioner to repair ditches and keep in repair the necessary head gates, ditches or flumes. The costs thereof, however, shall be taxed against the party or parties for whose benefit the same were incurred.

Section 7.

Fees to be fixed by Judge Persons using water to provide suitable headgates and measuring box

All persons using water under a decree from any stream whereon a Water Commissioner is appointed, shall be required to have suitable head gates at the point wherein a ditch taps a stream, and shall also, at some suitable place on the ditch and as near the head thereof as practicable, place and maintain a proper measuring box, weir or other appliance for the measurement of the waters flowing in such ditch. In case any person or persons shall fail to place or maintain a proper measuring appliance, it shall be the duty of such Water Commissioner not to apportion or disturb any water through said ditch.

Section 8.

Repealing clause.

All acts and parts of acts in conflict are hereby repealed.

Approved March 2, 1905.

CHAPTER 65.

An Act permitting Sole Corporations to file amended Articles of Incorporations, and Defining their Powers.

Be it Enacted by the Legislative Assembly of the State of Montana:

Relating to Eleemosynary Corporations.

Section 1. Whenever any Bishop, Chief Priest or Presiding Elder, shall have filed in the office of the

Secretary of State Articles of Incorporation, under the provisions of an Act Entitled, "An Act authorizing and regulating the incorporation of sole corporations and defining their powers," approved February 27th, 1899, and there shall be any change made in the boundaries of the territory over which he, or his successor, presides, or over which his or his successor's jurisdiction extends, or, whenever, for other reasons, it is deemed necessary, such Bishop, Chief Priest or Presiding Elder, or his successor in office, may file in the office of the Secretary of State amended Articles of Incorporation, which articles shall set forth the date of filing the original Articles of Incorporation, the name of such religious denomination, society or church, and the name of such sole corporation, and designate the territory over which he presides, or over which his jurisdiction extends, and the facts authorizing such Incorporation, and declare the manner in which any vacancy, occurring in the incumbency of such Bishop, Chief Priest, or Presiding Elder, as required by the rules and regulations, or discipline of such religious denomination, society or church, shall be filled, and shall also file the original, or a copy, or translation of his commission, certificate or letter of appointment as such Bishop, Chief Priest, or Presiding Elder, duly attested, and his affidavit that the same is a true copy or translation, shall be deemed a sufficient attestation thereof.

Relating to Eleemosynary Corporations.

Section 2. Upon filing the amended articles of Incorporation in the office of the Secretary of State, with the certificate or copy of appointment, mentioned in Section 1 of this Act, the Secretary shall issue to such corporation, over the Great Seal of the State, an amended certificate of Incorporation, setting forth therein the date of filing the original articles, and the date of filing the amended articles of Incorporation, and that said amended articles of Incorporation, containing the required statement of facts, and proof of the appointment or election of such Bishop, Chief Priest, or Presiding Elder, as provided in Section 1 of this Act, have

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been filed in his office. And the said Bishop, Chief Priest, or Presiding Elder shall continue to be, and be, and his successor in office, shall be a Sole Corporation, under the original articles, and amended articles of Incorporation filed.

Repealing clause.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 4. This Act shall take effect and be in full force from and after its passage and approval by the Governor.

Approved March 2, 1905.

CHAPTER 66.

An Act Providing that Water Users' Associations, organized in Conformity with the Requirements of the laws of the United States and the State of Montana for the Furnishing of Water only to its Stockholders, shall be exempt from Incorporation tax, Annual Franchise Tax, and Fixing the fee required to be paid to the Secretary of State for filing and Recording such Articles and Issuing Certificate of Incorporation.

Be it Enacted by the Legislative Assembly of the State of Montana:

What fees to be paid by water users' association for certificate of incorporation.

Section 1. That any water users' association, organized in conformity with the requirements of the laws of the United States and of the State of Montana, under the reclamation Act of June 17, 1902, which, under the articles of incorporation, is Authorized to furnish water only to its stockholders, shall be exempt from the payment of any incorporation tax and from the payment of any annual franchise tax, and upon filing its articles of incorporation with the Secretary of State shall be required to pay only a fee of ten dollars for the filing and recording of such articles of incorporation and the issuance of certificate of incorporation.

Repealing clause.

Section 2. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

When act takes effect.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 2, 1905.

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CHAPTER 67.

An Act to amend Section 4050 of Article I, Chapter XIII, Title X, Part III, of the Political Code of Montana, relating to Distribution of Moneys collected for Licenses.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4050 of Article I, Chapter XIII, Title X, Part III, of the Political Code of Montana, be amended to read as follows:

Section 4050 of Political Code amended.

Section 4050. All moneys collected for licenses must be paid into the treasury of the county in which the same was collected, Fifty per cent thereof for the use of the county, and Forty-five per cent thereof must be paid over by the County Treasurer to the State Treasurer for the use of the State.

How money paid for licenses apportioned.

Section 2. This Act shall be in full force and effect from and after its passage and approval by the Governor.

When act takes effect

Approved March 2, 1905.

CHAPTER 68.

An Act Providing for the Furnishing and use of blank form books for the Recording of Articles of Incorporation and Stock Certificates of Water Users' Associations organized under the National Reclamation Act, and Prescribing the Fees for such recording.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. The county commissioners of every county where Water Users' Associations, organized in conformity with the laws of the United States, under the Reclamation Act, have organized, or wherein such association shall hereafter organize, are required to furnish the county recorder, for the proper recording of such articles of incorporation and stock certificates of such companies, books to conform to such books and stock certificates as used by the Secretary of the Water

County Commissioners to furnish books for record of articles of incorporation and stock certificates of water users' associations.

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Users' Association, containing printed blank forms of such articles of incorporation and stock certificates, in accordance with the laws of the United States and of the State of Montana, such forms to be prepared by the Attorney General and used by the county recorder for the recording of such articles of incorporation and stock certificates.

Charge for recording certificate.

The county recorder shall charge fifty cents for recording each stock certificate.

Repealing clause.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 2, 1905.

CHAPTER 69.

An Act to provide for the support of the Government of the State of Montana for the years 1905 and 1906.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Ad valorem tax for State purposes for 1905.

There is hereby levied for state purposes upon all the property of the State liable to taxation for the year of 1905 an ad valorem tax of two and one-half mills (2½) on each dollar of the valuation of such property.

Section 2.

For 1906.

There is hereby levied for state purposes upon all the property of the state liable to taxation for the year of 1906 an ad valorem tax of two and one-half mills (2½) on each dollar of the valuation of such property.

Section 3.

Repealing clause.

All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

Section 4.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 2, 1905.

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CHAPTER 70.

An Act granting unto the government of the United States the right to use or enlarge any canal or ditch required in whole or in part for the construction of irrigation works by the United States within the State of Montana.

Be it Enacted by the Legislative Assembly of the State of Montana:

Secretary of Interior may use right of way of existing ditches, etc.

Section 1. That where, in the course of the construction of Irrigation Works, the Secretary of the Interior, or any person or agent authorized to act in the premises, deems it necessary to use the right of way of any existing ditch, canal or reservoir, such right and privilege may be enjoyed by the Government of the United States under, and subject to, either of the following provisions, to-wit:

Condemnation.

1. The existing ditch, canal or reservoir may be condemned as provided by law.

May be enlarged or extended.

2. The existing ditch, canal or reservoir after having been condemned as provided for by law, may be enlarged or extended by the United States without charge or cost to the owner or owners thereof; provided, that such enlargement or extension shall not be so made as to deprive any owner of such reservoir, ditch or canal of the water rights and privileges owned or enjoyed, at the time of such enlargement or extension, but such rights shall be and remain undiminished and unimpaired by, through, or on account of such extension or enlargement, and the ownership or the right to the use and enjoyment of such water rights and privileges by any owner thereof in and through the enlarged or extended reservoir, canal or ditch shall never be questioned by the United States, its successors or assigns, but shall be perpetually recognized and facilitated.

Repealing clause.

Section 2. All Acts or parts of acts in conflict herewith are hereby repealed.

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When act takes effect.

Section 3. This Act shall take effect and be in full force from and after its passage and approval by the Governor.

Approved March 2, 1905.

CHAPTER 71.

"An Act to Regulate the Issuance of Licenses of Retail Liquor Dealers in Cities, Towns, Villages or Camps containing a Population of Less than One-Hundred.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Retail liquor dealers must pay license.

Every person who engages in the business of a retail liquor dealer, that is, a person who sells spirituous, malt or fermented liquors or wine in less quantities than one quart, in all cities, towns, villages, or camps, where the population is less than one hundred, must obtain a license from the county treasurer. But before the county treasurer shall be permitted to issue such license, petition shall first be filed and presented to the Board of County Commissioners of the County, signed by at least twenty freeholders residing within the particular city, town, village, camp or township in which any person seeking such license intends to engage in business, requesting the issuance of such license to such person, and they shall in their discretion thereupon direct the county treasurer to issue such license, but not otherwise.

Petition must be obtained, signed by twenty freeholders.

Section II.

License not issued as matter of right.

Nothing herein contained shall be construed so as to require the Board of County Commissioners to issue any such order for a license as a matter of right but such license may be ordered to be issued entirely within the discretion of said Board of County Commissioners.

Section III.

County Commissioners to supervise and control persons engaged in sale of intoxicating liquors.

Board of County Commissioners are hereby granted power of supervision and control over persons engaged in the sale of intoxicating liquors in their respective

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counties outside of the corporate limits of incorporated cities and towns. And for the purpose of exercising such supervision and control it shall be lawful for the Board of County Commissioners of any county who are authorized to issue any order for a license for the sale of intoxicating liquors under the provisions of this Act, after notice to the person or persons holding such license, a reasonable opportunity to be heard, to revoke any license granted under the provisions of this Act, and declare the same forfeited, upon proof satisfactory to the Board that such person or persons have violated any of the laws of this State regulating the sale of intoxicating liquors, or that they have violated any of the provisions of the law regulating persons so licensed to sell, or places where such liquors are sold, or that such person or persons have permitted any of the laws of this State to be violated upon the premises wherein such liquors are authorized to be sold, or if such premises shall become the resort of idle, dissolute or disorderly persons, or shall be so conducted as to disturb the peace and quiet of the neighborhood; and such license shall cease to be in force from and after its revocation.

May revoke license.

Section IV.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Repealing clause.

Section V.

This Act shall be in full force and effect from and after its passage.

When act takes effect.

Approved March 3, 1905.

CHAPTER 72.

An Act to amend Section 939 of the Penal Code of the State of Montana, relating to the removal of mortgaged personal property from the county where it is situated at the time it is mortgaged."

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Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 939 of Penal Code amended.

That Section 939 of the Penal Code be, and the same is hereby amended so as to read as follows:

Section 939.

Removal of mortgaged property.

Every person who, after mortgaging any personal property, except locomotives, engines, rolling stock of a railroad, steamboat machinery in actual use and vessels, voluntarily removes, or permits the removal of such mortgaged property from the County where it was situated at the time it was mortgaged, without the written consent of the mortgagee, with intent to deprive the mortgagee of his claim thereto and interest therein, is guilty of larceny.

Section 2.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1905.

CHAPTER 73.

An Act relating to internal improvements in Cities and Towns, authorizing the issuance and collection of Special Improvement Warrants or Bonds upon the property benefited by local improvements.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Cost of municipal improvements to be paid in installments.

That whenever the City or Town Council of any city or town shall, under authority vested in them by the law of this State, cause any street, avenue or alley in such city or town to be graded, curbed, guttered, paved, re-paved, repaired or macadamized or re-macadamized, or any permanent sidewalk to be constructed, or any sewer to be constructed, or make any other improve-

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ments, the expense of which, or any part thereof, is to be defrayed by special assessment, they may in their discretion, provide for the payment of the cost and expense thereof by installments, instead of levying the entire tax or special assessment for such cost and expense at one time, and for such installments may issue special improvement warrants and levy and collect assessments to pay the same, under the authority and in conformity with the provisions of Sections 30 to 34 inclusive of House Bill No 204, of the Fifth Legislative Assembly of the State of Montana, approved March 8th, 1897, as amended; provided, however, that they may extend the payments of installments covering a period of not to exceed eight years or they may issue in the name of such city, improvement bonds of the district, which shall include the property liable to assessment for such local improvement according to the laws of this State or any city ordinance, payable in installments of equal amounts each year, none of which bonds or any of the installments thereof, shall run longer than ten years, nor bear interest exceeding eight per centum per annum. Such bonds may be issued to the contractor constructing the improvement in payment thereof, or the Mayor or City Council or other authorized officer or officers of said City, may sell the same at not less than their par value net, and pay the proceeds thereof to the contractor. Such bonds shall not be issued in amount in excess of the actual cost of the work or improvement, except that the installment coupons shall include the interest on such installments to the maturity thereof. The bonds shall be of such denominations as the Mayor or City Council shall deem proper. Where district bonds are issued under this Act for improvements, the cost of which is or may by law or city or town ordinance, charged by special assessment against specific property, the Mayor and Council shall levy special assessments each year sufficient to redeem the installments of such bonds next thereafter maturing, but in commuting the amount of special as-

Special improvement warrants.

Improvement bonds.

Mayor and city council levy special assessments.

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sessment to be levied against each piece of property liable therefor, there must be included interest thereon at a rate not exceeding eight per centum per annum from date of issuance of said bonds until the maturity of installment bonds next thereafter maturing. Such assessments shall be made upon the property chargeable for the cost of such improvements, respectively, and shall be levied and collected in the same manner as may be provided by laws and ordinance of such city for the levy and collection of special assessments for such improvements where no bonds are issued, except as is otherwise provided by this Act. But the basis of such assessment, whether upon assessed valuation, area, frontage, or otherwise, shall be retained for the assessment of succeeding installments of said bonds.

Owner may redeem from special assessment.

The owner of any piece of property liable to special assessment, may redeem his property from such liability by paying the entire assessment chargeable against his property (the City Clerk mailing him a written or printed notice) thirty days before the issuance of the bonds or after the issuance of the bonds by paying all the installments of the assessments which have been levied and also the amount of unlevied installments, together with interest to the next annual date of interest payment, with interest on the latter at the rate fixed by the bonds from the date of issuance of said bonds to the next annual date of interest payment thereafter, and provided that the City Treasurer whenever he shall have received a sum sufficient from the redemption of any piece or pieces of property, by owners paying his assessment, together with the interest to the next annual date of interest payment, to pay one of said bonds in full, shall pay the said bonds beginning at the first in number.

In all cases where installments of assessments not yet levied and paid as above provided, whether before or after the issuance of the bonds, the same shall be paid to the City Treasurer who shall receipt therefor, and all sums so paid shall be applied solely to the payment

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of such bonds or the redemption of bonds issued therefor. Where any piece of property has been redeemed from liability for the cost of any improvement as herein provided, such property shall not thereafter be liable for further special assessment for the cost of such improvement, except as hereinafter provided. No suit to set aside the special assessment or to enjoin the making of the same shall be brought, nor any defense to the validity thereof be allowed after the expiration of thirty days from the time the amount due on each lot or piece of ground liable for such assessment is ascertained and confirmed by the council.

No suit to set aside special assessment after thirty days.

The funds raised by such assessments shall be applied solely towards the redemption of said bonds.

How funds applied.

Section 2.

Such bonds, when issued to the contractor constructing the improvement in payment therefor, or when sold as above provided, shall transfer to the contractor or other owner or holder all the right and interest of such City in and with respect to every such assessment, and the lien thereby created against the property of such owners assessed as shall not have availed themselves of the provisions of this Act in regard to the redemption of their property as aforesaid, shall authorize said contractor and his assigns and the owners and holders of said bonds to receive, sue for and collect or have collected, every such assessment embraced in any such bond by or through any of the methods provided by law for the collection of assessments for local improvements. And if the City shall fail, neglect or refuse to pay said bonds, or to promptly collect any such assessments when due, the owner of any such bonds may proceed in his own name to collect such assessment and foreclose the lien therefore in any court of competent jurisdiction, and shall recover in addition to the amount of such bonds and interest thereupon, five per centum, together with the cost of such suit. Any number of such bonds for any single improvement, may join as plaintiffs, and any number of owners of the property

Bonds issued to contractor.

Lien may be foreclosed.

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on which the same are a lien may be joined as defendants in such suit. And such bonds shall be equal liens upon the property for the assessments represented by such bonds without priority of one over another to the extent of the several assessments against the several lots and parcels of land.

Who may be plaintiffs.

Section 3.

That in all cases of special assessment for local improvements of any kind against property, persons, or corporations whatsoever wherein said assessments have failed to be valid in whole or in part for want of form or insufficiency, informality or irregularity or non-conformance with the charter provisions or laws governing such assessments, the City Council or other authorized board or body shall be and they are hereby authorized to re-assess such special taxes or assessments and to enforce their collections in accordance with the provisions of law existing at the time the re-assessment is made; And it is Further Provided, That whenever, for any cause, mistake or inadvertence, the amount assessed shall not be sufficient to pay the cost of the improvement made and enjoyed by the owners of property in local assessment district where the same is made, that it shall be lawful and the City Council or other authorized board or body is hereby directed and authorized to make re-assessments on all the property in said local assessment district sufficient to pay for such improvement, such re-assessment to be made and collected in accordance with the provisions of the law and ordinance existing at the time of its levy.

Reassessment.

Section 4.

That nothing herein shall be construed as repealing or modifying any existing manner or method for cities or towns of this State to make improvements as now provided by law, but shall be construed as an additional and concurrent power and authority. Any city whose charter provides for the issuance of bonds for local improvements, payable only from the proceeds of special assessments, is hereby authorized to issue such

Construed as additional and concurrent power and authority.

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bonds in the manner and with the effect provided in such charter, and the holder of any such bond shall look only to the fund provided by such assessment, for the principal or interest of such bond.

Section 5.

No claim against city or town.

The holder of any bond issued under the authority of this Act shall have no claim therefor against the city or town by which the same is issued, in any event, except from the collections of the special assessment made for the improvement for which such bond was issued, but his remedy, in case of no payment, shall be confined to the enforcement of such assessments. A copy of this Section shall be plainly written, printed or engraved on the face of each bond so issued.

Copy of section to be printed on bond.

Section 6.

When act takes effect.

This law shall take effect and be in force from and after its passage and approval.

Approved March 3, 1905.

CHAPTER 74.

An Act to amend Section 410 of the Political Code of Montana, as amended by an Act Entitled, "A Bill for an Act to Amend Section 410 of the Political Code of Montana Relating to the fees of the Secretary of State," approved March 2nd, 1899, relating to the Fees of the Secretary of State, and also an Act to Amend Section 410 of the Political Code of Montana, as Amended by an Act entitled, "A Bill for an Act to Amend Section 410 of the Political Code of Montana, relating to the fees of the Secretary of State," approved March 2nd, 1899, relating to the fees of the Secretary of State, Approved March 9th, 1903.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 410 of Political Code amended.

Section 1. That Section 410 of the Political Code of Montana, as amended, be amended so as to read as follows:

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Fees of Secretary of State.

Section 410. The Secretary of State, for services performed in his office, must charge and collect the following fees:

I. For each copy of any law, resolution or record, or other document or paper on file in his office, twenty cents per folio.

II. For affixing certificate and seal, One Dollar.

III. For issuing each certificate of incorporation and each certificate of increase of capital stock, Three Dollars.

IV. For recording and filing each certificate of incorporation and each certificate of increase of capital stock, the following amounts shall be charged:

Amounts up to $100,000.00, Fifty Cents per Thousand Dollars.

Additional from $100,000.00 to $250,000.00, Forty Cents per Thousand Dollars.

Additional from $250,000.00 to $500,000.00, Thirty Cents per Thousand Dollars.

Additional from $500,000.00 to $1,000,000.00, Twenty Cents per Thousand Dollars.

Additional over $1,000,000.00, Ten Cents per Thousand Dollars.

Providing that no fee for filing any articles of incorporation or increase of capital stock shall be less than $20.00, except religious societies, churches, and organizations for religious purposes, not having a capital stock, and not being organized for the purpose of profit.

V. For issuing each certificate of decrease of capital stock, Three Dollars.

VI. For recording and filing each certificate of decrease of capital stock, Five Dollars.

VII. For issuing each certificate of continuance of corporate existence, Three Dollars.

VIII. For recording and filing each certificate of continuance of corporate existence, the following amounts shall be charged:

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Amounts up to $100,000.00, Twenty-five Cents per Thousand Dollars.

Additional from $100,000.00 to $250,000.00, Twenty Cents per Thousand Dollars.

Additional from $250,000.00 to $500,000.00, Fifteen Cents per Thousand Dollars.

Additional from $500,000.00 to $1,000,000.00, Ten Cents per Thousand Dollars.

Additional over $1,000,000.00, Five Cents per Thousand Dollars.

IX. For recording and filing each notice of removal of place of business, each certificate of change of name, or each certificate making capital stock assessable, Three Dollars.

X. For filing each certified copy of charter or articles of incorporation of any foreign corporation, the same fee shall be charged as is provided for in Article IV of this Section, for district corporations.

XI. For filing each notice of appointment of agent, Five Dollars.

XII. For filing each annual or semi-annual statement of any foreign corporation, Five Dollars.

XIII. For receiving and recording each official bond, Two Dollars.

XIV. For each commission or other document, signed by the Governor and attached by the Secretary of State (Pardon and Military Commissions excepted), Five Dollars.

XV. For searching the records and archives of the State, One Dollar.

XVI. For filing each trade mark, Three Dollars; and for issuing each certificate of record, One Dollar.

XVII. For recording miscellaneous papers, records, or other documents, for filing, One Dollar; for recording, Twenty Cents per folio.

XVIII. For filing any other paper not otherwise herein provided for, One Dollar for filing and Twenty Cents per folio for recording.

"That no member of the Legislative Assembly, or State

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or County Officer, can be charged for any search relative to matters appertaining to the duties of his office; nor must he be charged any fee for a certified copy of any law or resolution passed by the Legislative Assembly relative to his official duties. Fees must be collected in advance, and when collected by the Secretary of State, must be paid to the State Treasurer at the end of each quarter, as provided in the Constitution."

Repealing clause.

Section 2. All Acts and parts of Acts in conflict with this Act are hereby repealed.

When act takes effect.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1905.

CHAPTER 75.

An Act to Amend Sections 4597 and 4602 of the Political Code of the State of Montana, relating to the number of deputies allowed county officers.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 4597 of Political Code amended.

That Section 4597 of the Political Code of the State of Montana, relating to the number of deputies allowed to county officers be amended so as to read as follows:

Deputies of County Clerk.

Section 4597. The whole number of deputies allowed the County Clerk in counties of the first and second classes must not exceed six, in counties of the third class, three; in counties of the fourth and fifth class, two; in counties of the sixth, seventh and eighth classes, one. The whole number of deputies allowed the Clerk of the District Court in counties of the first and second classes must not exceed one chief deputy, and deputies to the number of six; in counties of the third and fourth classes having more than one District Judge, three; in counties of the third and fourth classes having one District Judge, two; in counties of the fifth, sixth and seventh and eighth classes, one.

Deputies of Clerk of District Court.

The whole number of deputies allowed the Sheriff is

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one under sheriff, and in addition not to exceed the following number of deputies; in counties of the first and second classes, six; in counties of the third and fourth classes, two; in counties of the fifth, sixth, seventh and eighth classes, one. Deputies of Sheriff.

The Sheriff in counties of the first, second and third classes may appoint two deputies, and in the fourth, fifth, sixth, seventh and eight classes, one deputy, who shall act as jailors at a salary not to exceed Ninety Dollars per month. Jailers.

Section 2.

That Section 4602 of the Political Code of the State of Montana, be amended so as to read as follows: Section 4602 of Political Code amended.

Section 4602. The whole number of deputies allowed the County Treasurer must not exceed in counties of the first class, two; in counties of the second, third and fourth classes, one; in counties of the fifth, sixth, seventh and eighth classes, no deputies must be allowed; provided, that the Board of County Commissioners may allow such deputies as may be necessary during the months of November and December of each year. Deputies of County Treasurer.

In counties of the first, second and third classes, Assessors may be allowed one deputy, and during the months of March, April, May, June, July and August, not to exceed two additional deputies, at a salary not exceeding One Hundred Dollars per month; in counties of all other classes Assessors may be allowed one deputy during the months of March, April, May, June and July, at a salary not exceeding One Hundred Dollars per month. Deputies of Assessor.

The whole number of deputies allowed to county Auditors in counties of the first, second and third classes, must not exceed one. Deputies of Auditor.

The whole number of deputies allowed the County Attorney in counties of the first and second class must not exceed one chief deputy, and one deputy; and in all other counties such deputies as may be allowed by Deputies of County Attorney.

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the Board of County Commissioners, not to exceed one chief deputy and one deputy.

Repealing clause.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 4. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 3, 1905.

CHAPTER 76.

An Act to amend Sections 51, 52 and 53, of Chapter XLIV of the Laws of 1903, Relating to the Inspection of Highways and Bridges by County Surveyors, and Providing for the Inspection of Highways and Bridges by a member of the Board of County Commissioners and for his compensation.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 51 of Laws of 1903 amended.

That Section 51, of Chapter XLIV of the Laws of 1903, be and the same is hereby amended so as to read as follows:

Section 51.

County Surveyor.

The Board of County Commissioners, may by order, direct the County Surveyor, or any member of said Board, or both the County Surveyor and any member of said Board, to inspect the condition of any highway or bridge in the County, and the work done thereon, before payment therefor.

Section 2.

Section 52 of Laws of 1903 amended.

That Section 52, of Chapter XLIV of the Laws of 1903, be and the same is hereby amended so as to read as follows:

Section 52.

Compensation of member of Board.

Such member of said Board shall receive for making said inspection the sum of $5.00 per day, and the County Surveyor shall receive for making said inspection, and for all other work performed for the County, the Sum

Compensation of County Surveyor.

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of $7.00 per day and actual travelling expenses; which sums must be in full payment for mileage, expenses and per diem for the services aforesaid, and shall be audited and allowed in the same manner as any other claim against the County.

Section 3.

Section 53 of Laws of 1903 amended.

That section 53, of Chapter XLIV of the Laws of 1903, be and the same is hereby amended so as to read as follows:

Section 53.

Written report of inspection.

The County Surveyor, or such member of said Board, or both the County surveyor and Such member of said Board, when they act jointly, must must at the next regular meeting of the Board present and file written report of such inspection.

Section 4.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 5.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 3, 1905.

CHAPTER 77.

"An Act to amend Section 1912 of the Political Code of the State of Montana as amended by substitute for Senate Bill No. 81, approved March 4th, 1897, and relating to the Issuance of Certificates to teach in the Public Schools of Montana."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 1912 of Political Code amended.

That Section 1912 of the Political Code of Montana as amended by substitute for Senate Bill No. 81, approved March 4th, 1897 be amended to read as follows:—

Section 1912.

No certificate to teach in the Public Schools of Mon-

Teacher in public schools must be citizen of United States.

tana shall be granted to any person, who is not a citizen of the United States, or who has not declared his intention to become a citizen. Any teacher now holding a certificate, who is not a citizen of the United States will be allowed six months time in which to declare his intention to become a citizen, or else have his certificate revoked.

Must be over age of 18 years, etc.

No regular or temporary certificate to teach shall be issued to any person under the ages of eighteen years, and no professional or first grade certificate shall be issued to any person who has not taught successfully twelve months; and a third grade certificate shall not be issued more than twice to the same person. Third and second grade certificates shall be valid only in the county where issued. A professional or first grade certificate shall be valid in any county in the state upon indorsement as hereinafter provided, and shall be renewed by the County Superintendent upon the proper fee being paid to the institute fund as provided for in case of examination; provided, that no professional or first grade certificate shall be renewed unless the applicant has taught at least ten months during the life of said certificate. Said professional or first grade certificate shall be renewed by the County Superintendent by his indorsement thereon, upon the payment of the same fee as is required by law for examinations; provided, further, than whenever application is made by a holder of an unexpired first grade, second grade, or third grade Montana certificate for examination for any higher grade certificate, and it shall be made to appear to the County superintendent that such applicants have been engaged in teaching in any of the public schools of the State for a period of one year or more, the said applicant shall be entitled to be credited with the percentage on his or her last examination for said first, second or third grade certificate, as the case may be and shall not be required to be examined in any studies except the additional ones prescribed for such certificates, and such other studies that the applicant

When certificate valid.

Professional and first grade certificates.

Proviso.

Proviso.

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may not have secured the required percentage upon previous examination; provided, further, that to excuse any candidate from taking the examination upon any branch of any grade he or she must have secured upon such branch at his, or her last previous examination at least 80% per cent. Proviso.

No person shall be employed or permitted to teach in any of the public schools of the State who is not a holder of a lawful certificate of qualification to teach. Any contract made in violation of this Section shall be void; provided, that the special certificate in penmanship, drawing, modern language and music shall be granted upon request of the majority of the members of any Board of Trustees. Such a special certificate to be valid for three years and shall entitle the holder to teach only such special branch or branches stated in said certificate; provided, further, that if the attendance upon the aforesaid examination of teachers at the County Seat shall work a great hardship to one or more teachers, in the County, the County Superintendent, upon application of the State Superintendent, may provide for such teachers to take the examination at some convenient place, and the County Superintendent may appoint some suitable person to conduct such examination, under the rules and regulations prescribed by the State Superintendent of Public Instruction. Contract void. Proviso. Special certificate. Proviso.

Section 3.

All Acts and parts of Acts in conflict herewith are hereby repealed. Repealing clause.

Section 4.

This Act shall be in full force and effect from and after its passage and approval by the Governor. When act takes effect.

Approved March 3, 1905.

CHAPTER 78.

An Act to amend Section 523, Chapter IV, Title II, part II, of the Code of Civil Procedure of the State of Montana, relating to limitations of actions.

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Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 523 of Code of Civil Procedure amended.

That Section 523, Chapter IV, Title II, Part II, of the Code of Civil Procedure of the State of Montana be and the same is hereby amended so as to read as follows; to-wit:

No limitation of action to recover money or other property deposited with any bank, etc.

Section 523. To actions brought to recover money or other property deposited with any Bank, Banker, Trust Company or Savings and Loan Corporations, Association or Society, there is no limitations; provided, however, that any action to obtain, set aside or question in any manner any stated or settled account, between any Bank, Banker, Trust Company or Savings or Loan Corporation, Association or Society, and any depositor or depositors with such Bank, Banker, Trust Company, or Savings or Loan Corporations, Association or Society, must be commenced within five years from the date of the statement of such account.

Action must be begun within three years.

Any action based upon or arising from the payment of any Bank, Banker, Company, Corporation Association or Society, of a forged, raised, or otherwise altered check, order or promissory note, out of the deposit, money or property of the Plaintiff, it shall be brought within three years, from the day on which the plaintiff, his agent, assignee, or personal representatives shall have been notified of such payment, or on which he or they shall have received such check, order or note marked "paid."

Section 2.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3.

When act takes effect.

This Act shall be in full effect and force from and after its passage and approval by the Governor.

Approved March 3, 1905.

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CHAPTER 79.

"An Act amending Section 3895, Part III, Title X, Chapter VIII, of the Political Code of the State of Montana, relating to Notice of Appliction for Tax Deed."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 3895, Part III, Title X, Chapter VIII, of Political Code, amended.

That Section 3895, Part III, Title X, Chapter VIII, of the Political Code of the State of Montana, relating to Notice of Application for Tax Deeds, be, and the same is hereby amended to read as follows:

Duty of party purchasing property sold for delinquent taxes.

Section 3895. The purchaser of property sold for delinquent taxes or his assignee, must, thirty days previous to the expiration of the time for redemption, or thirty days before he applies for a deed, serve upon the owner of the property purchased, if, known, and upon the person occupying the property, if said property is occupied, a written notice, stating that said property, or a portion thereof, has been sold for delinquent taxes, giving the date of sale, the amount of property sold, the amount for which it was sold, the amount due, and the time when the right redemption will expire, or when the purchaser will apply for a deed, and the owner of the property has the right of redemption indefinitely until such notice has been given and said deed applied for, upon the payment of fees, percentages, penalties and costs required by law. In case of an unoccupied property, or a mining claim, such notice must be posted in a conspicuous place upon the property, and personally served upon all owners thereof residing in the county where the property is situated, at least thirty days before the expiration of the time for redemption, or thirty days before the purchaser applies for such tax deed.

Section 2.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval of the Governor.

Approved March 3, 1905.

CHAPTER 80.

An Act to amend Section 1925 (B), Part III, Title III of the Political Code of the State of Montana and to provide that when a complaint charging that a child is a juvenile disorderly person within the meaning of An Act Entitled, "An Act to amend Sections 1920, 1921, 1922, 1923, 1924 and 1925, Part III, Title III of the Political Code of the State of Montana and to provide for the compulsory education of all children between the ages of eight and Sixteen years, to establish Industrial Schools, equip and conduct the same and to provide for the regulation of juvenile disorderly persons," passed at the Eighth regular Session of the Legislative Assembly of the State of Montana, and approved March 3rd, 1903, is made before any Mayor, Justice of the Peace or Police Judge is shall be certified by such Magistrate to the District Court in and for the County in which the child resides or to a Judge of said District Court and that said District Court or the Judge thereof to whom such complaint is certified shall have authority to hear such complaint and order that the child be committed to the Industrial School provided for in said Act.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1925 (b) of Political Code amended

Section 1. That Section 1925 (b), of Part III, Title III, of the Political Code of the State of Montana be and the same is hereby amended so as to read as follows:

Section 1925 (b). If the parent, guardian, or other person in charge of any child shall, upon the complaint under the last section for a failure to cause the child to attend a recognized school, prove inability to do so,

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then he or she shall be discharged, and thereupon the truant officers shall make complaint that the child is a juvenile disorderly person within the meaning of Section 1923 of this Article. If such complaint is made before any Mayor, Justice of the Peace or Police Judge, it shall be certified by such Magistrate to the District Court in and for the County in which the child resides or to a Judge of said District Court. The District Court or the Judge thereof to whom the same is certified shall hear such complaint and if it be determined that the child is a Juvenile disorderly person within the meaning of Section 1923 of this Article, the said child shall be committed by said Court or the Judge thereof to whom the complaint was certified to the Industrial School hereinafter provided for where he shall be subject to all the rules and regulations of said Industrial School; provided, further, that if for any cause the parent, guardian, or other person in charge of any juvenile disorderly person as defined in Section 1923 of this Article shall fail to cause such Juvenile disorderly person to attend school, then complaint against such juvenile disorderly person shall be made, heard and determined in like manner as provided in case the parent proves inability to cause such juvenile disorderly person to attend school.

Juvenile disorderly persons.

Section 2. All Sections in the school laws of the State of Montana in conflict with the provisions of this Act are hereby repealed.

Repealing clause.

Section 3. This Act shall take effect and be in full force from and after its passage and approval by the Governor.

When act takes effect.

Approved March 3, 1905.

CHAPTER 81.

"An Act to amend Section 2385 of the Political Code of Montana providing for the loan of books belonging to the State Library.

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Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 2385 of Political Code amended.

That Section 2385 of the Political Code of Montana be amended so as to read as follows:

Law Library, etc.

Section 2385. All persons during library hours are permitted to examine the libraries and their contents. During sessions of the Legislative Assembly the members thereof may take books from the libraries and State officials may do so at any time. Law books may be taken from the library to the court room by any attorney, and returned the same day.

Books may be loaned.

Such books belonging to the Historical and Miscellaneous Department of the State Library, other than reference books, as could be readily replaced in case of loss, may be loaned to any citizen of the State, who shall place such guarantee with the Librarian of this Department, for the safe return of the same, as the library board may demand, and who shall pay the cost of transportation of the book or books to and from the borrower; provided that no book that could not be readily replaced in case of loss shall be removed from said Library except by State Officials, and by them only in pursuit of their official duty.

Repealing clause.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 3, 1905.

CHAPTER 82.

An Act to Amend Section 4063 of the Political Code of the State of Montana as the same is now in force after amendment by An Act Entitled, "An Act to Amend Sections 4063, 4064, 4065, 4068 and 4083 of the Political Code of Montana," approved March 6th, 1897, as the same is now in force after an amend-

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ment by An Act Entitled, "An Act to Amend Section 4063 and 4064 of the Political Code of the State of Montana," approved March 4th, 1901, relating to Licenses.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4063 of the Political Code of Montana be, and the same is hereby amended to read as follows: Section 4063 of Political Code amended.

Section 4063. Every person who sells or offers for sale, directly or indirectly, any spiritous, malt, vinous, distilled or fermented liquors or wines, must obtain a license therefor from the county treasurer, as prescribed in this Chapter, and must make the following payments therefor: Must obtain license to sell liquor.

In all cities, towns, villages or camps which contain a population of Ten Thousand or over, and for a distance of one mile from the limits thereof, Three Hundred and Thirty Dollars semi-annually. Amount.

In all cities, towns, villages or camps which contain a population of Three Thousand Five Hundred to Ten Thousand, Two Hundred and Seventy Five Dollars semi-annually. Amount.

In all cities, towns, villages or camps which contain a population of One Thousand to Thirty Five Hundred, Two Hundred and Sixty Four Dollars semi-annually. Amount.

In all cities, towns, villages or camps which contain a population of Three Hundred to One Thousand, Two Hundred and Twenty Dollars semi-annually. Amount.

In all cities, towns, villages or camps which contain a population under Three Hundred, or elsewhere not provided for in this Section, One Hundred and Sixty Five Dollars semi-annually. Amount.

In no case shall any license contemplated in this Section be issued for a less period than Six Months. That all licenses provided for in this Act shall be negotiable and transferable in the city or county where the same are issued. Negotiable.

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Repealing clause.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 3. 1905.

CHAPTER 83.

An Act to amend Sections 1 and 2 of An Act to create the Montana State Board of Horticulture, to Prescribe its powers and duties, and to appropriate money therefor, approved February 17, 1899, as amended by Chapter CIX of the Eighth Legislative Assembly.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 1 of Laws of 1899 as amended by 8th Legislative Assembly amended.

That Section 1 of an Act to Create the Montana State Board of Horticulture, to Prescribe its powers and duties and to appropriate money therefor, approved February 17, 1899 as amended by Chapter CIX of the Eighth Legislative Assembly be, and the same is hereby amended so as to read as follows:

Section 1.

State Board of Horticulture.

There is hereby created a State Board of Horticulture, to consist of eight members, seven of whom shall be appointed by the Governor, one from each of the horticultural districts that are hereby created, and the State Executive who shall be an ex-officio member of the Board. No person shall, however, be appointed on said Board, or employed by them, who shall be connected in any way, with any nursery, or who shall be engaged in the sale, or handling for profits, of any nursery product.

Section 2.

Section 2 of said act amended.

That Section 2 of said Act, as amended, be, and the same is hereby amended so as to read as follows:

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Section 2.

The State shall be divided into the following Horticultural districts:

Horticultural districts.

The first district shall comprise the counties of Dawson, Custer, Yellowstone, Sweet Grass, Carbon, Park and Rosebud.

The Second district shall comprise the counties of Gallatin, Madison, Jefferson, Beaverhead, Silver Bow, Lewis & Clarke, Meagher and Broadwater.

The third district shall comprise the counties of Cascade, Fergus, Valley, Chouteau and Teton.

The fourth district shall comprise the counties of Missoula, Granite, Powell and Deer Lodge.

The fifth district shall comprise the county of Ravalli.

The sixth district shall comprise the county of Flathead; and the seventh district shall comprise the county of Sanders.

Section 3.

Repealing clause.

All Acts or parts of Acts in conflict herewith are hereby repealed.

Section 4.

When act takes effect.

This act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 3, 1905.

CHAPTER 84.

An Act to amend Section 4066, of Article II, Chapter XIII, Title X, Part III, of the Political Code of the State of Montana, relating to the licensing of peddlers, hawkers, and travelling merchants, as amended by House Bill No. 160 of the Fifth Legislative Assembly of the State of Montana, entitled "An Act to amend Section 4066 of Article II, Chapter XIII, Title X, Part III, of the Political Code of the State of Montana, relating to the licensing of peddlers, hawkers, and travelling merchants," approved March 3, 1897.

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Be it Enacted by the Legislative Assembly of the State of Montana:

Section 4066 of Political Code amended.

Section 1. That section 4066, of Article II, Chapter XIII, Title X, Part III, of the Political Code of the State of Montana, relating to the licensing of peddlers, hawkers, and travelling merchants, as amended by House Bill No. 160 of the Fifth Legislative Assembly of the State of Montana, Entitled "An Act to amend Section 4066 of Article II, Chapter XIII, Title X, Part III, of the Political Code of the State of Montana, relating to the licensing of peddlers, hawkers, and travelling merchants," approved March 3, 1897, be and the same is hereby amended so as to read as follows:

License of traveling merchant, etc.

"Section 4066. Every travelling merchant, hawker or peddler who carries a pack and vends goods, wares or merchandise must pay a license of Twelve Dollars and Fifty Cents per quarter, and every travelling merchant, hawker, or peddler, who uses a wagon, animal, or other means of transportation other than on foot, must pay a license of Fifty Dollars per quarter; and every merchant who travels from place to place, and who is not included in the above provisions and vends goods, wares or merchandise at temporary quarters, shall pay a license of Fifty Dollars per quarter; but the peddler, hawker or travelling merchant, who carries for sale and sells only agricultural products raised by himself or articles manufactured by himself is not included in the provisions of this Section.

Repealing clause.

Section 2. All Acts or parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 3, 1905.

CHAPTER 85.

An Act to enable the State Board of Land Commissioners, through the State Engineer's office, to investigate the Feasibility of Irrigating State Lands; to de-

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termine the Available Water supply; to Appropriate Water for said lands, and making an appropriation for Field and Office Expenses of such work.

Be it Enacted by the Legislative Assembly of the State of Montana:

Appropriation to carry out provisions of paragraphs 2, 3, and 4, of Section 7, Chapter CXIV, Acts of 1903.

Section 1. That to carry out the provisions of Paragraphs two (2) three (3) four (4) of Section 7, of Chapter CXIV, Acts 1903, providing for the examination of State Lands to ascertain how much of same it is practicable to Irrigate and for the measurement of streams which might furnish water for said lands, and for keeping proper record of such examinations and measurements; and to Provide the necessary Assistants for State Engineer, there is hereby Appropriated the sum of Two Thousand ($2,000.00) Dollars for the fiscal year of 1905, and Two Thousand ($2,000.00) Dollars for the fiscal year 1906, or as much thereof as is necessary, to be expended under the direction of the State Board of Land Commissioners and State Engineer; claims against said Appropriation to be passed upon and paid in same manner as other claims against the State.

State Board of Land Commissioners.

Section 2. That the State Board of Land Commissioners is hereby Authorized, through the State Engineer as its agent, or otherwise, at its discretion, to appropriate any available waters for use upon State Lands, and to authorize the construction of irrigation works for said lands. The appropriation shall be made in the same way and under the same laws as those governing the appropriation of water by individuals and said water right laws are hereby made available and may be applied by said Board or its agent.

Repealing clause.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 4. This Act shall take effect and be in full force from and after its passage and approval by the Governor.

Approved March 3, 1905.

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CHAPTER 86.

An Act to amend Section 4604 of the Political Code of the State of Montana, relating to the compensation and mileage of Sheriffs.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 4604 of Political Code amended.

Section 1. That Section 4604 of the Political Code of the State of Montana, be, and the same is hereby amended so as to read as follows:

Sheriffs.

Section 4604. Sheriffs delivering prisoners at the State Prison, or at the State Reform School, or Insane persons at the State Insane Asylum, shall receive actual expenses necessarily incurred in their transportation, which shall include the expenses of the Sheriff in going and returning from such institution.

Vouchers for expenses.

They shall take vouchers for every item of expenses incurred by them in such transportation, the amount of which expenses, as shown by the said vouchers when served by such Sheriff shall be audited and allowed by the State Board of Examiners or by the Board of County Commissioners, as the case may be, and paid out of the same money and in the same manner as are other expense claims against the State or Counties, and no other or further compensation shall be received by Sheriffs for such expenses.

Mileage.

While in the discharge of his duties both civil and criminal, except as hereinbefore provided, the Sheriff shall receive Ten Cents per mile for each and every mile actually and necessarily traveled and for transporting any person by order of Court, except as hereinbefore provided, he shall receive Ten Cents additional per mile, the same to be in full for transporting and dieting of such person during such transportation. The County shall not be liable for nor shall the Board of County Commissioners pay, for any claim of the Sheriff or other officer, for team or horse hire, or any other expense incurred in travel or for subsistence in cases where mileage is allowed under this Section; the fees for mileage named in this Sec-

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tion being in full for all such traveling expenses in both civil and criminal work.

Repealing clause.

Section II. That all acts and parts of acts in conflict herewith are hereby repealed.

When act takes effect.

Section III. This Act shall be in full force and effect from and after its passage.

Approved March 3, 1905.

CHAPTER 87.

An Act to Regulate the rate per mile for transportation of passengers on railroads and railways operating wholly or in part in the State of Montana, and Providing penalties for the violation thereof.

Be it Enacted by the Legislative Assembly of the State of Montana:

Railway corporations to charge not to exceed 3 cents per mile.

Section 1. It shall be unlawful for any railroad or railway company operating wholly or in part in the State of Montana, or any of the officers or employees thereof, to charge or receive, from any person who is to be conveyed or transported on any of the lines of any such railroad or railway companies from any point within this State, to another point within this State, a sum exceeding three (3) cents per mile for the distance to be travelled by such person, nor shall any excess fare greater amount than ten cents be charged or collected from any passenger with promise of rebate or refund of such excess, and that for children between the ages of five (5) and twelve (12) years, not more than one-half of the rate named in Section 1 shall be charged, and that children under five (5) years of age, when accompanied by parent or guardian, shall be transported free of charge; provided, that no railroad or railway company, or the officers or employees thereof, shall be obliged to accept a single fare for a sum less than five (5) cents; provided, that any such railroad or railway company shall not be precluded from selling mileage books at a rate less than three cents per mile. All persons shall have equal right to purchase

Half rate.

Proviso.

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such mileage books. That all charges for fares shall end in the figures 0 or 5 and such figure shall be the one nearest to the fare computed under the provisions of this Act.

Exception.

Section 2. The provisions of Section 1 of this Act shall not apply to independent lines of railroads or railways operating wholly within the State of Montana upon which a rate in excess of three (3) cents per mile is now charged, until such time as the State Legislature, or other State Officers, having power under the laws of Montana to name passenger rates, shall, in their judgment, deem the rate so charged to be excessive.

Penalty.

Section 3. Any railroad or railway company, or any officer or employee thereof, who shall violate any of the provisions of this Act shall, upon conviction thereof, be fined in a sum not less than $50.00 nor more than $500.00.

Fines, how applied.

Section 4. In any and all cases wherein a conviction is secured for a violation of any provision of this Act, the party injured shall be entitled to receive one-half of all fines imposed and collected, and the remaining one-half of such fines imposed and collected shall be paid into the school fund of the city in which the action is prosecuted.

Repealing clause.

Section 5. All Acts and parts of Acts in conflict with this Act are hereby repealed.

When act takes effect.

Section 6. This Act shall take effect and be in force from and after April 1st, 1905.

Approved March 4, 1905.

CHAPTER 88.

"An Act relating to the Number of Deputies allowed County Auditors in Counties of the First Class, and fixing the Compensation of same."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

In counties of the First Class, County Auditors may

appoint not to exceed two deputies. The salary of such deputies shall not exceed the sum of One Hundred Dollars ($100.00) per month. Deputies of County Auditors.

Section 2.

All Acts and parts of Acts in conflict with this Act are hereby repealed. Repealing clause.

Section 3.

This Act shall take effect and be in full force from and after its passage and approval by the Governor. When act takes effect.

Approved March 4th, 1905.

CHAPTER 89.

An Act relating to number of assistants allowed the Clerk of the District Court, in Counties of the First Class, and fixing the Compensation allowed to said Deputies and Assistants in Counties of the First Class.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

In Counties of the First Class, the Clerk of the District Court thereof may appoint one Chief Deputy who shall be paid a salary of Eighteen Hundred and no-100 Dollars per annum, one deputy Clerk for each department of the District Court who shall be paid a salary of Fifteen Hundred and no-100 Dollars per annum and Six Deputies who shall be paid a salary of Twelve Hundred and no-100 Dollars per annum. Deputies of Clerk of District Court.

Section 2.

All Acts and parts of Acts in conflict with this Act are hereby repealed. Repealing clause.

Section 3.

This Act shall take effect from and after its passage and approval by the Governor. When act takes effect.

Approved March 4, 1905.

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CHAPTER 90.

An Act to Promote Co-operation of the State with the National Government and Enable Montana to Receive the full benefit of National Irrigation Law, by providing for the Creation of a Commission to Prepare and Report on a Revised Irrigation Code, Fixing Number of Members, Method of Appointment, Duties and Compensation and Appropriating Five Hundred Dollars, for the necessary Expenses of said Commission.

Be it Enacted by the Legislative Assembly of the State of Montana:

Irrigation Code Commission.

Section 1. The Governor of Montana is hereby authorized to appoint an Irrigation Code Commission to consist of seven members, and to be selected by him. The duty of said commission shall be to meet in Helena on or before February 15th, 1906, and at said meeting or adjournment thereof to prepare a Revised Irrigation Code adapted to the needs of Montana; then on or before May 1st, 1906, to have same published with such additional pertinent matter, in such quantity, and mailed to such persons as they deem best.

Clerk.

Said Commission may employ a clerk during its meeting and to mail reports. Each Member of said Commission shall be entitled to his necessary travelling and subsistence expenses while engaged in this work, and shall render bill with vouchers to the Board of Examiners for such expenses.

Expense of Commission.

There is hereby Appropriated out of the funds of the State not otherwise appropriated, the sum of Five Hundred Dollars or as much thereof as may be necessary to pay the expenses of said Commission.

Repealing clause.

Section 2. All Acts or parts of Acts in Conflict with this Act are hereby repealed.

When act takes effect.

Section 3. This Act shall take effect from and after its passage and approval by the Governor.

Approved March 4, 1905.

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CHAPTER 91.

An Act to repeal Section 1318 of the Political Code, relating to Elections.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That Section 1318 of the Political Code of the State of Montana be, and the same is, hereby repealed. Section 1318 of Political Code repealed.

Section 2.

This Act shall take effect and be in full force from and after its passage and approval by the Governor. When act takes effect.

Approved March 4, 1905.

CHAPTER 92.

An Act to amend Sections 1152 and 1173 of the Code of Civil Procedure of Montana.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That Section 1152 of the Code of Civil Procedure of the State of Montana is hereby amended so as to read as follows: Section 1152 of Code of Civil Procedure amended.

Section 1152. No particular form of exception is required, but the grounds of the objection shall be particularly stated except as provided in the next preceding Section. The objection must be stated with so much of the evidence taken from the stenographer's notes, or other matter as is necessary to explain it, and no more. Only the substance of the reporter's notes of the evidence shall be stated or used as evidence. Documents on file in the action or proceeding may be copied, or the substance thereof stated, or a reference thereto, sufficient to identify them, may be made when that will sufficiently present the objections and exceptions. Exceptions and objections

Section 2.

Section 1173 of the Code of Civil Procedure of the Section 1173 of Code of Civil Procedure amended.

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State of Montana is hereby amended so as to read as follows:

New trial.

Section 1173. The party intending to move for a new trial must, within ten days after the verdict of the jury, if the action were tried by a jury, or after notice of the decision of the court, or referee, if the action was tried without a jury, file with the clerk and serve upon the adverse party a notice of his intention, designating the grounds upon which the motion will be made.

When motion made upon affidavits.

1. If the motion is made upon affidavits the moving party must, within ten days after serving the notice, or such further time as the court in which the action is pending, or a judge thereof, may allow, file such affidavits with the clerk and serve a copy upon the adverse party, who shall have ten days to file counter affidavits, a copy of which must be served upon the moving party.

Bill of exceptions.

2. If the motion is to be made upon a bill of exceptions, and no bill has already been settled as hereinbefore provided, the moving party shall have the same time after service of the notice to prepare and obtain a settlement of a bill of exceptions as is provided after entry of judgment, or after receiving notice of such entry by Section 1155, and the bill shall be prepared and settled in a similar manner. If a bill of exceptions has already been settled and filed, when the notice of motion has been given, such bill shall be used on the motion.

Statement of the case.

3. If the motion is to be made upon a statement of the case, the moving party must, within ten days after service of the notice, or such further time as the court in which the action is pending, or the judge thereof, may allow, prepare a draft of the statement and serve the same, or a copy thereof, upon the adverse party. If such proposed statement be not agreed to by the adverse party, he must, within ten days thereafter, prepare amendments thereto and serve the same, or a copy thereof, upon the moving party. If the amend-

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ments be adopted, the statement shall be amended accordingly, and then presented to the judge who tried or heard the cause for settlement, or to be delivered to the Clerk of the Court for the judge. If not adopted, the proposed statement and amendments shall, within ten days thereafter, be presented by the moving party to the judge, upon five days' notice to the adverse party, or delivered to the Clerk of the Court for the judge; and thereupon the same proceedings for the settlement of the statement shall be taken by the parties and clerk and judge as are required for the settlement of bills of exception by Section 1155. If the action was heard by a referee, the same proceedings shall be had for the settlement by him as are required by that Section for the settlement of bills of exception by a referee. If no amendments are served within the time designated, or, if served, are allowed, the proposed statement and amendments, if any, may be presented to the judge or referee for settlement without notice to the adverse party.

Errors of law.

When the notice designates as the ground of the motion errors in law, occurring at the trial and excepted to by the moving party, the statement shall specify the particular errors upon which the party will rely. If no such specifications be made the errors not specified shall be disregarded on the hearing of the motion. It is the duty of the judge or referee in settling the statement to strike out of it all redundant and useless matter, and to make the statement truly represent the case, notwithstanding the assent of the parties to such redundant or useless matter, or to any inaccurate statement. When settled and the proposed statement and amendments properly engrossed, the statement shall be signed by the judge or referee, with his certificate to the effect that the same is allowed, and shall then be filed with the clerk.

Matters contained in any bill of exceptions shall not be repeated in a statement, and if so repeated shall be stricken therefrom by the judge or referee.

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Section 3.

Repealing clause. All Acts or parts of Acts in conflict herewith are hereby repealed.

Section 4.

When act takes effect. This Act shall take effect and be in full force from and after its passage and approval by the Governor.

Approved March 4, 1905.

CHAPTER 93.

An Act to authorize the Courts of Record of this State to issue injunctions to restrain Persons or Corporations from violating any of the Provisions of Section 20 of Article XV of the Constitution of the State of Montana, or of any law or laws enacted for Enforcing said Section Pending the final Determination of any action, Civil or Criminal, Brought in any Court for the Purpose of Enforcing Said Section of the Constitution, or any law or laws Enacted thereunder.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 20 of Article XV of Constitution of Montana. That whenever any Action, either civil or criminal, shall have been instituted in any court in this State against any person or persons, corporation or corporations, foreign or domestic, for the purpose of enforcing the provisions of Section 20 of Article XV of the Constitution of the State of Montana, or any law or laws enacted pursuant to or for carrying out the same, the court in which such action is pending, if it be a court of record, or if not, then any court of record in this State, shall be and it is hereby authorized to issue an injunction to restrain any such person or persons, corporation or corporations, foreign or domestic, from doing business in this state in violation of said section of the Constitution, or in violation of any law or laws enacted pursuant to or for the purpose of enforcing said Section of the Constitution, or in violation of any law or laws enacted pursuant to or for the purpose of en-

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forcing said Section of the Constitution, pending the final determination of said action so instituted.

Section 2.

Said injunction shall issue as in cases, of equity, without bond, upon the application of the County Attorney of the county in which such action is pending, or upon the application of the Attorney General, in the name of the State of Montana, upon a prima facie showing that an action, civil or criminal, has been so instituted and is so pending charging such person or persons, corporation or corporations, foreign or domestic, with a violation of said Section of the Constitution, or of any law or laws enacted thereunder. Injunction.

Section 3.

All Acts and parts of Acts in conflict herewith are hereby repealed. Repealing clause.

Section 4.

This Act shall be in full force and effect from and after its passage and approval by the Governor. When act takes effect.

Approved March 4, 1905.

CHAPTER 94.

An Act Fixing the Maximum Number of Deputy Sheriffs in Counties of the First Class and the Maximum Annual Compensation thereof.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That in counties of the first class the whole number of deputies allowed the sheriff is one under sheriff, as provided for in sections 4596 and 4597 of the Political Code of Montana, and in addition thereto one chief Deputy and Clerk and not to exceed thirteen Deputy sheriffs. Deputies of Sheriffs.

Section 2. The maximum annual compensation allowed any deputy or assistant in a county of such class is as follows: Compensation.

Chief Deputy and clerk not to exceed eighteen hundred dollars.

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Each deputy sheriff not to exceed twelve hundred dollars.

Repealing clause.

Section 3. All Acts and parts of acts in conflict herewith are hereby repealed.

When act takes effect.

Section 4. This Act shall be in full force and effect from and after its passage.

Approved March 4, 1905.

CHAPTER 95.

An Act to Amend Title VIII, Division II, Part IV of the Civil Code of the State of Montana, relating to the appropriation of water for beneficial purposes, and defining the rights of appropriators, by adding two new Sections to be numbered Sections 1903, and 1904.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Sections 1903 and 1904 added

That their [there] shall be added to Title VIII, Division II, Part IV of the Civil Code of the State of Montana, two additional Sections, to be numbered and known as Sections 1903 and 1904, respectively, which shall read as follows:

Section 1903.

Any person availing himself of the provisions of the preceding Sections, and who shall have complied with said preceding Sections relating to the appropriation of water, may, within Six months after his ditch is completed, publish a notice once a week for two successive weeks, in a newspaper designated by the County Commissioners as the official paper of the County, stating that he will, on a date to be therein mentioned, which date shall be not less than twenty nor more than thirty days after the first publication of said notice, cause said ditch to be surveyed by a Competent Civil Engineer, whose name shall be given, and stating the name of stream, and such a general description as will identify the ditch. It shall be the duty of said person to

Survey of ditches.

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employ a competent civil engineer to make such survey, and it shall be the duty of such civil engineer to survey said ditch, ascertain its grade, measure the headgate thereof, and measure said ditch in such other places as may be necessary to show its carrying capacity, and also measure the land irrigated by said ditch, or proposed to be irrigated thereby, and to make a map showing the general courses of the ditch and the land irrigated or proposed to be irrigated therefrom, giving the grade and dimensions of the head gate and other dimensions of the ditch where measured, and attach thereto his affidavit showing the date when he commenced the survey of said ditch, the date when completed, the names of the persons who assisted him, and that said map and the date given thereon are correct. If for any reason the Survey cannot be made upon the day designated in the notice, it may be made on any subsequent day, and the person who caused said survey to be made shall file an affidavit showing why the survey was not made on the day mentioned in the notice: Provided, however, that if any person appears upon the ground at the time mentioned in the notice, and serves a written notice that he desires to be present when said survey is made, the person who caused said ditch to be made shall give such person at least three days written notice of the time when said ditch shall be surveyed. The said survey of said ditch may be continued from day to day, or from time to time, as may be necessary to complete it, and any person shall have the right to be present at said survey. The map made by the Surveyor, his affidavit, and the affidavit of publication of the notice aforesaid, shall, within thirty days from the completion of said survey, be filed in the office of the Clerk and Recorder of the county wherein the notice of appropriation is filed, and such affidavit and map, or certified copies thereof, shall be prima facie evidence of the facts therein shown and stated in all courts in this State in actions relating to said ditch and water right.

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Section 1904.

Whenever there shall have been an adjudication of the rights between appropriators or claimants, any stream or any other water supply in this State, in any District Court of the State, or the United States Court, in an action prosecuted in good faith between such appropriators, or claimants, to determine their respective rights to the use of such waters, and which decree is based upon evidence introduced, and not upon stipulations or admissions of the parties, such adjudication and decree, or certified copies thereof, shall, as against all persons, appropriating or diverting any of the waters of the said stream, or other water supply, after the date of such decree, in an action relating to such waters, be prima facie evidence of the facts therein found, determined and decreed, respecting the rights of parties to said action to the use of the waters of said stream, or other water supply.

Survey, prima facie evidence.

Section 2.

All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3.

This act shall be in full force and effect from and after its passage and approval.

When act takes effect.

Approved March 4, 1905.

CHAPTER 96.

An Act to Amend the Act Entitled, "An Act to prevent wrongs to children and dumb animals, and to establish a Bureau of Child and Animal Protection." Approved March 7, 1903 and repealing Sections 1, 2, 3, 4, 5, 6, 7 and 8 of said Act:

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That there is hereby created a State Bureau of Child and Animal protection, for the purpose of enforcing the laws of the State of Montana, pertaining to children

Bureau of Animal and Child Protection.

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and dumb animals which may now or hereafter exist; and to promote the growth of education and sentiment favorable to the protection of children and dumb animals.

Section 2.

Secretary.

The Governor of the State is hereby authorized and empowered to appoint a secretary, at a salary of $1200.00 per annum, whose duty it shall be to carry out the purposes of the said Bureau as hereby established.

Section 3.

Office of Secretary.

That the said Secretary shall be provided with a suitable office at the capitol; the usual supply and necessary printed matter for the office shall be furnished on requisition by the secretary in the same manner as for other State Officers.

Section 4.

Report of Secretary.

That the said Secretary shall make a biennial report to the Governor of the State, embracing the proceedings of the Bureau and statistics showing the work of the Bureau, together with such papers, facts and recommendations as the Secretary may deem useful to the interest of children and dumb animals in the State, said report to be fully prepared for publication. The secretary of State shall cause the same to be published in pamphlet or book form by the State under the supervision of said Secretary, provided that not to exceed $100.00 shall be expended for printing said report.

Section 5.

Deputy.

The said secretary shall have power to appoint one deputy, whose residence shall be in some county, other than the one in which the secretary himself resides. And such deputy shall take and subscribe the same oath required of the principal. And the same to be of record in the secretary's office. The deputy shall have the same power and authority as vested by law in the principal. And shall have a salary of One Hundred ($100.00) dollars, per month, payable monthly out of the public treasury. He shall make full and complete reports every month to the said principal, showing all

Salary.

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his official acts with names of persons accused and against whom prosecutions may have been instituted, and the results thereof. Said deputy may be removed at any time, by the Secretary and another appointed to fill the vacancy.

Section 6.

Clerk.

The secretary of the State Bureau of Child and Animal Protection, provided for in said Act, shall be, and is hereby authorized to appoint and have one clerk in his office, to assist in making the records and all other clerical duties of said office, who shall be paid out of the public treasury a monthly salary, not exceeding twenty-five ($25.00) dollars.

Salary.

Section 7.

The said secretary shall have the power, at any time that he deems it best for the public interest, to dispense with the services of the said clerk for a limited space of time, or for all the time.

Section 8.

Secretary may dispense with services of clerk.

No warrant shall be issued by the Auditor of the State, for expenses or other costs incident to the execution of the duties of the said secretary or his deputy until itemized accounts properly verified shall be presented by the person to whom the warrant is to be issued, nor until the same is certified to, as correct by the State Board of Examiners. Upon presentation of said account duly verified and certified, as above, the State Auditor shall draw a warrant in favor of the party or parties, entitled thereto, for the amount so certified.

Section 9.

Duties of Secretary.

The secretary of the Bureau of Child and Animal Protection or the deputy so appointed by him, are hereby authorized and empowered when in extreme cases of cruelty or neglect, in their judgment it is absolutely necessary to protect minor children, under eighteen years of age, to seize the same and have them cared for at the expense of the county, in which they reside, until a judicial inquiry can be made as to their condition by the courts of said county; and it is hereby

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made the duty of said secretary or deputy to institute proceedings for a judicial investigation into the condition of such child or children, and the same to be disposed of by said court, according to the state laws relating to minor children, and it is made the duty of the Board of County Commissioners, in the county, in which such child or children reside to pay for the care, or maintenance of such child or children upon presentation of vouchers properly verified, until final disposition of such child or children is made by order of the court.

Section 10.

Powers and authority of Secretary.

The secretary or his deputy shall be vested with authority to enter workshops, factories, stores, mines, mills and smelters and all other places, where children may be employed and do whatever may be necessary, in the way of investigation or otherwise to enforce the laws pertaining to minor children and animals.

Section 11.

Repealing clause.

That Sections 1, 2, 3, 4, 5, 6, 7 and 8 of an Act entitled, "An Act to prevent wrongs to children and dumb animals, and to establish a Bureau of Child and Animal Protection, approved March 7th, 1903," and all Acts and parts of Acts in conflict herewith be and the same are hereby repealed.

Section 12.

When act takes effect.

This Act shall take effect and be in force from and after its passage and approval by the Governor.

Approved March 4, 1905.

CHAPTER 97.

An Act relative to number of assistants allowed Treasurers in Counties of the First Class, and fixing the Compensation allowed to said Deputies and assistants in Counties of the First Class.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

In counties of the First Class, the Treasurer thereof

Deputies of County Treasurer.

may appoint one Chief Deputy, at a Salary of Two Thousand and no-100 Dollars per annum, one Deputy at a salary of Fifteen Hundred and no-100 Dollars per annum, and one Deputy at a salary of Twelve Hundred and no-100 Dollars per annum; and said Treasurer may also appoint for the months of October, November, December and January two additional deputies at a salary at the rate of One Hundred and no-100 Dollars per month.

Salary.

Section 2.

Repealing clause.

All Acts and parts of Acts in conflict with this Act are hereby repealed.

Section 3.

When act takes effect.

This Act shall take effect from and after its passage and approval by the Governor.

Approved March 4, 1905.

CHAPTER 98.

An Act to make legal and valid certain Special Improvement District Warrants issued by the City of Havre, Chouteau County, Montana, by virtue of an Act of the Legislative Assembly of the State of Montana, Entitled an Act relating to Public Improvements in Cities and Towns, etc., "Approved March 8th, 1897, in payment for the construction of a Sanitary Sewer in said City of Havre."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Special Improvement warrants issued by City of Havre.

That those certain Special Improvement District Warrants issued by the City of Havre, County of Chouteau, State of Montana, in payment for the construction of a Sanitary Sewer for the said City of Havre, which said Special Improvement District Warrants were issued by virtue of an Act of the Fifth Legislative Assembly of the State of Montana, and Entitled "An Act Relating to Public Improvements in Cities and Towns, etc." Approved March 8th, 1897, and which

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said Warrants were issued in the amounts, and to the several persons, and which bear the date as follows, to-wit:

$6094.80, dated October 21, 1904, issued to J. A. Clark.

9222.14, dated November 12, 1904, issued to J. A. Clark.

13862.48, dated December 16, 1904, issued to J. A. Clark.

95.58, dated November 14, 1904, issued to C. B. McCulloh.

84.52, dated November 14, 1904, issued to Sam Hanley.

9.00, dated November 14, 1904, issued to C. W. Swearingen.

101.07, dated December 8, 1904, issued to C. B. McCulloh.

112.85, dated December 8, 1904, issued to Sam Hanley.

13.44, dated December 8, 1904, issued to William Peppin.

48.54, dated January 12, 1905, issued to C. B. McCulloh.

26.24, dated January 12, 1905, issued to Sam Hanley.

1.25, dated January 12, 1905, issued to Havre Com'l Co.,

Declared legal

Together with any and all other Special Improvement District Warrants issued by the said City of Havre prior to the passage of this Act and for the purpose herein mentioned, are hereby declared to be legal and valid in all respects, notwithstanding any defect, omission, or irregularity in the issue thereof, and all Acts and things done by the City Council of the said City of Havre in issuing and delivering said Special Improvement District Warrants are hereby fully approved, ratified and confirmed.

Section 2.

When act takes effect.

This Act shall be in full force and effect from and after the date of its passage and approval by the Governor.

Approved March 6, 1905.

CHAPTER 99.

Section 1206 of Political Code amended.

"An Act to provide for the nomination of candidates by direct vote at a primary election, to provide the method of adopting such act in any county or city, and to amend Sections 1206 of Political Code as amended by the laws of 1899 and 1260 of the Political Code."

Be it Enacted by the Legislative Assembly of the State of Montana:

Construction of words and phrases.

Definition and Construction.—Section 1. The words and phrases of this Act shall, unless the same be inconsistent with the context, be construed as follows:

1. The word "primary," the primary election provided for by this Act:

September.

2. The words "September primary," the primary election held in September to nominate candidates to be voted for at the ensuing general election:

Election.

3. The word "election," a general or city election, as distinguished from a primary election:

November election.

4. The words "November election," the general election held in November:

Precinct.

5. The word "precinct," a district established by law within which all qualified electors vote at one polling place:

6. For the purpose of this Act, the members of the Legislative Assembly shall be deemed county officers.

Candidate.

7. The word "candidate" when used in this Act, includes delegates to county conventions, unless otherwise qualified.

Statute liberally construed

This statute shall be liberally construed, so that the real will of the electors may not be defeated by an informality or failure to comply with all provisions of law in respect to either the giving of any notice or the conducting of the primary or certifying the results thereof.

Section 2. Hereafter, all candidates for elective offices of the county, (except as hereinafter mentioned in this section), and all delegates to county conventions of any political party shall be nominated:

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How candidates are nominated.

1. By a primary held in accordance with this Act:

2. By nomination papers, signed and filed as provided by existing statutes.

Act not to apply to certain officers.

This Act shall not apply to special elections to fill vacancies, nor to United States Senators, Members of Congress, State officers, town, village or school district officers, nor to judicial officers, excepting police magistrates and justices of the peace in cities.

Primaries.

Primaries, when and where held.—Section 3. 1. The September primary shall be held at the regular polling places in each precinct on the first Tuesday of September, prior to the general election in November, and biennially thereafter, for the nomination of all candidates to be voted for at the next November election, except for the offices specifically mentioned in Section 2 of this Act.

When held.

2. Any primary other than the September primary shall be held two weeks before the election for which said primary is held.

Notice of primaries, how given.—Section 4.

Notice of primaries—how given.

1—At least sixty days before the time of holding such September primary, the county clerk of each county, shall prepare a notice in writing designating the offices for which candidates are to be nominated, at such primary, and shall publish the same once in each week for four consecutive weeks in some newspaper of general circulation, published in said county.

2—In case of city elections, the city clerk shall cause one publication of such notice to be given, and shall also post such notice in three public places in each election precinct therein, such publication and posting to be not more than twenty and not less than ten days before such primary election.

Nomination papers, how prepared and signed.—Section 5.

Nomination papers—how signed and prepared.

1. The name of no candidate shall be printed upon any official ballot used at any primary unless at least thirty days, except in the case of a city election, prior to such primary a nomination paper shall

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have been filed in his behalf as provided in this Act in substantially the following form:

I, the undersigned, a qualified elector of (the..... precinct of the.....ward of the city of.....) county of.....and state of Montana, and a member of the.....party, hereby nominate..... who resides (at No.....on.....street, or city of .....(or if such candidate does not reside in any city in which the residences are designated by number, then the place of his post-office address) as a candidate for the office of (.....) to be voted for at the primary to be held.....as representing the principles of said party and I further declare that I intend to support the candidate named herein.

Name of Signer	In Cities		Date of Signing
	Street	No.	

Form of nomination papers.

2. All nomination papers shall have substantially the above form written or printed at the top thereof. No signatures shall be counted unless they be upon sheets each having such form written or printed at the top thereof. Provided, however, that the names of one or more candidates for nomination as delegates to the county convention of a political party from one precinct may be placed upon the same nomination paper or papers to be circulated in the precinct; the number of names on any nomination paper not to exceed, however, the total number of delegates apportioned to any precinct in the county by the county committee of such political party, as certified to the county clerk of such county.

Signer limited to one paper for same office

3. Each signer of a nomination paper shall sign but one such paper for the same office, and shall declare that he intends to support the candidate named therein; he shall add his residence, with the street and number, if any, and the date of signing.

4. For all nominations, all signers of each separate

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nomination paper shall reside in the same precinct. The affidavit of a qualified elector shall be appended to each such nomination paper, stating that he is personally acquainted with all persons who have signed the same, and that he knows them to be electors of that precinct, as the nomination papers shall require; that he knows that they signed the same with full knowledge of the contents thereof, and that their respective residences are stated therein and that each signer signed the same on the date stated opposite his name, and that he, the affiant, intends to support the candidate named therein. Such affidavit shall not be made by the candidate, but each candidate shall file with his nomination paper, or papers, a declaration that he will qualify as such officer if nominated and elected.

Residence of signers.

5. Such nomination papers shall be signed:

(a) If for nomination of candidates for county office, other than delegates to county convention, by at least three per cent of the party vote in at least one-sixth of the election precincts of such county and in the aggregate not less than three per cent of the total vote of his party in the county.

Number of signers necessary.

(b) If for nomination of candidates for delegates to the county convention by at least three per cent of the party vote in the precinct of such candidate.

The basis of percentage in each case shall be the vote of the party for the presidential elector receiving the largest vote at the last preceding presidential election.

Basis of percentage.

Nomination papers may also be filed for non-partisan candidates or for the candidate of a political party which has no candidates at the next preceding general election in the county or city for which any primary is to be held; such papers shall contain at least two per cent of the total vote cast for the presidential elector receiving the largest vote at the last presidential election in the municipal subdivision in which the person is a candidate, such signers to be distributed in each case as required by the provisions of this Act.

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Filing papers.

Nomination papers, where filed.—Section 6. All nomination papers shall be filed as follows:

1. For officers to be voted for wholly within the county, or any precinct in the county, in the office of the county clerk of such county.

2—For city officers, in the office of city clerk.

Publication of names of candidates.—Section 7. The county clerk shall, at least twenty-five days before any primary preceding a general election, publish under the proper party designation, the title of each office, the name and addresses of all persons for whom nomination papers have been filed, giving the name and address of each, the name of the precinct for which the candidates for delegates to the county convention have been nominated, the date of the primary, the hours during which the polls will be opened, and that the primary will be held at the regular polling place in each precinct.

Notice to be published.

It shall be the duty of the county clerk to publish such notice for three consecutive weeks prior to said primary.

Publication of notices.—Section 8. Every publication required in this Act shall be made in a newspaper of general circulation in such county or city.

Official ballots

Official ballots.—Section 9. Separate official ballots for each political party, and also an official ballot for the names of non-partisan candidates, shall be printed and provided for use at each voting precinct, in the form herein provided and annexed hereto.

The names of all candidates for the respective offices, for whom the nomination papers prescribed shall have been duly filed, shall be printed thereon.

The official ballot shall be in the following form:

Form of official ballot.

OFFICIAL PRIMARY BALLOT.

GENERAL ELECTION.

.....PARTY.

(Designation of party.)

To vote for a person whose name is printed on the ballot, mark a cross (X) in the square before the name of the person for whom you desire to vote. To vote for a

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person whose name is not printed on the ballot, write or paste his name in the space provided for that purpose.

.....COUNTY.

Vote for (insert number)		Delegates for..Precinct.
	☐	John Doe
	☐	_____
	☐	Richard Doe
	☐	_____
		(Insert all names of candidates for delegates.)
Vote for One.		State Senator.
	☐	John Doe
	☐	_____
	☐	Richard Doe
	☐	_____
Vote for (insert number)		Representatives.
	☐	John Doe
	☐	_____
	☐	Richard Doe
	☐	_____

Vote for One.		Treasurer.
	☐	John Doe
	☐	
	☐	Richard Doe
	☐	

(Continuing in like manner for balance of ticket, which for convenience may be set up in one or more columns.)

Preparation and distribution of ballots.

Preparation and distribution of ballots.—Section 10. 1—At least twenty days before the September primary each county clerk shall prepare sample official ballots, placing thereon, alphabetically, under the appropriate title of each office and party designated, the names of all candidates to be voted for in his county for whom nomination papers have been filed. Such sample ballot shall be printed upon tinted or colored paper and shall contain no blank endorsement or certificate.

Preparation and distribution of ballots.

2. Such clerk shall forthwith submit the ticket of each party to the county chairman thereof and mail a copy to each candidate for whom nomination papers have been filed with him as required by this Act, to his post office address, as given in such nomination paper, and he shall post a copy of each sample ballot in a conspicuous place in his office.

Preparation and distribution of ballots.

3. On the tenth day before such primary the county clerk shall correct any errors or omissions in the ballots, cause the same to be printed and distributed as required by law in the case of ballots for the general election, except that the number of ballots to be furnished to each precinct, for each political party, shall be one and one-half times the number of votes cast thereat for the candidate for Congress of such political party in the last preceding election.

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Expense of primary—how paid.

Expenses of primary, how paid.—Section 11. All ballots, blanks and other supplies to be used at any primary, and all expenses necessarily incurred in the preparation for or conducting such primary, shall be paid out of the treasury of the city or county, as the case may be, in the same manner, with like effect, and by the same officers as in the case of elections.

Section 1260 of Political Code amended.

Section 1260 of the Political Code is hereby amended so as to read as follows:

Judges of election.

"The Board of County Commissioners of the several counties at the regular session next preceding any September primary for such county must appoint five judges of election for each precinct in which the voters therein, by the last registration, were one hundred or more, and three judges of election for each precinct in which such registration was less than one hundred. The judges so appointed shall act as judges both at such primary and at the following election preliminary to which such primary is held. They shall have the same powers and duties in respect to any primaries as are now prescribed by law in reference to elections."

Powers and duties.

Conduct of primaries—Manner of voting.—Section 12.

Existing laws applicable.

1. All existing laws in relation to the manner of conducting elections in counties and cities respectively shall be applicable to the conduct of primaries where not otherwise provided.

Polls.

2. The polls at primaries shall be open:

(a) In cities, from 12 o'clock M. until 9 o'clock P. M.

(b) In all other precincts, from one o'clock P. M. until six o'clock P. M.

Ballot.

3. At all primaries there shall be an Australian ballot made up of several party tickets herein provided for, all of which shall be securely fastened together at the top and folded, provided that there shall be as many separate tickets as there are parties entitled to participate in said primary election.

There shall also be attached a non-partisan ticket

Non-partisan ticket.

upon which, under the appropriate title of each office shall be printed the names of all persons for whom nomination papers have been filed, as required by this Act, who are not designated on such nomination papers as candidates of any political party, as defined by this Act. The names of all candidates shall be arranged alphabetically according to surnames under the appropriate title of the respective offices and under the proper party designation upon the party ticket or upon the non-partisan ticket as the case may be. If any elector write upon his ticket the name of any person who is a candidate for the same office upon some other ticket than that upon which his name is so written, this ballot shall be counted for such person only as a candidate of the party upon whose ticket his name is written, and shall in no case be counted for such person as a candidate upon any other ticket. In case the person is nominated upon more than one ticket he shall forthwith file with the proper officer, or officers, in charge of the preparation of the ballot, a written declaration indicating the party designated under which his name is to be printed on the official ballot.

Declaration of candidate.

Marking of ballot.

The ballots with the endorsements shall be in substantially the form heretofore annexed, provided that ballots for any city primary may be varied as to the title of the officers to be printed thereon, so as to conform to the law under which each such primary is held. The provisions of the general election laws of the State, as far as applicable, shall govern the preparation and marking of the ballot. After preparing his ballot, the elector shall detach the same from the remaining tickets and fold it so that its face will be concealed. The remaining tickets attached together shall be folded in like manner by the elector who shall thereupon, without leaving the polling place, vote the marked ballot forthwith, and deposit the remaining tickets in the separate ballot box to be marked and designated as the blank ballot box. Immediately after the canvass, the judges

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shall, without examination, destroy the tickets deposited in the blank ballot box.

Vacancies, how filled.—Section 13. Vacancies occurring after the holding of any primary or through failure to nominate shall be filled by the party committee of the city, county or state, as the case may be, by the chairman of such committee filing a nomination paper filling such vacancy. Vacancies.

The number of delegates entitled to attend the county convention of any political party and to representation at said convention shall be apportioned throughout the several precincts to the vote cast by said party in each precinct for representatives in Congress at the last general election. Apportionment of delegates.

At least seventy days prior to each September primary the chairman of the county central committee in each county, shall make out and file with the county clerk of the county, a certificate stating the number of delegates to which each precinct in such county is entitled in the county convention of the party of whose committee he is chairman as determined by the governing body of such party. Chairman of County Central Committee to file certificate.

Voting and registration at primaries.—Section 14.

1. No person shall be entitled to vote at any primary unless a qualified elector of the precinct and duly registered therein. Who entitled to vote.

Section 1206 of the Political Code, as amended by the laws of 1899, is hereby amended so as to read as follows: Section 1206 of Political Code amended.

Section 1206. It is the duty of the registry agent at any time when called on to do so, at his respective office and not elsewhere, provided that the Board of County Commissioners may designate places for registration within any registry district in addition to the home office, between the hours of 2 P. M. and 8 P. M. on all legal days from the 15th day of July to the 5th day of August, and between the hours of 9 A. M. and 9 P. M. from the 5th day of August to and including the 15th day of August, prior to any general election not herein otherwise provided for, to receive and register the Duty of registry agent.

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names of all persons legally qualified and entitled to vote at such election, or, who being otherwise qualified, will have legally acquired a residence at the date of election to have a right to vote at such ensuing election, according to the provisions of law under which said election may be held, in each election precinct within their respective districts; provided, that, except in registration districts included in an incorporated town or city, which town or city contained at the last preceding State election over one thousand registered voters, such general registration of all voters shall only be required every eight years, from and after the year 1898, and any person who has been registered in any district, except as above noted, at any time within said eight year periods, and who has been a continuous resident of such district since such registration shall be entitled to vote, if otherwise qualified, without further registration. If at any time it shall be made to appear, by the affidavits of two credible and responsible electors of the district, that any registered person has died or permanently removed from the district, the registry agent shall place such affidavits on file and shall cancel the entry with red ink and shall enter the date and cause and such cancelled name shall not appear in the printed list, copies of the official registers and check lists herein provided for.

Challenges.

Challenges.—Section 15. The right of any person to vote at a primary may be challenged upon the same ground and his right to vote be determined in the same manner as at an election.

Canvass of votes.

Canvass of votes.—Section 16. Canvass of votes cast shall, except as herein otherwise provided, be made in the same manner and by the same officers as the canvass of an election.

By precinct judges.

1. The precinct judges of election shall, on separate sheets, on blanks to be provided for that purpose, make full and accurate returns of the votes cast for each candidate, and shall within twenty-four hours cause to be delivered one copy of such returns to the chairman of

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the county committee of each political party, and also cause such returns to be delivered to the county clerk, if a September primary, or to the chairman of the city committee and city clerk, if a city primary provided always that such returns shall be sent by registered mail where practicable.

By County Commissioners

2. The county canvass of the returns of the September primaries shall be made by the same officers and in the same manner provided by law for the canvass of the returns of a November election. The canvassers shall meet and canvass such returns at ten o'clock on the Friday following the September primary. Their returns shall contain the whole number of votes cast for each candidate of each political party, and a duplicate shall be delivered to the chairman of the county committee of each party.

Party candidates.—Section 17.

Who shall be party candidates.

1. The person receiving the greatest number of votes at a primary as the candidate of a party for an office, or as a delegate from a precinct, shall be the candidate of that party for such office, and his name as such candidate shall be placed on the official ballot at the following election.

Delegates and alternates.

2. The persons in number equal to the number of delegates to which each precinct shall be entitled in the county convention of any political party, as shown by the certificate of the chairman of the county central committee of such party, receiving the highest number of votes as delegates to such county convention, shall be the delegates to the same and a like number of persons receiving the next highest vote shall be their alternates, and the county board of canvassers forthwith upon canvassing the returns of any September primary, must make and issue a certificate which they shall deliver to the chairman of the county committee of each political party respectively, containing the names of the delegates and alternates chosen from each precinct to the county convention of such party.

City boards of canvassers: Quorum: Meetings, when

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Canvass of returns of city primary.

held:—Section 18. The canvass of the returns of a city primary shall be made by the mayor, city clerk, and the treasurer of such city, any two of whom shall constitute a quorum. Such board of canvassers shall meet at eleven o'clock in the forenoon of the day following the city primaries and canvass the votes. They shall make and certify duplicate returns as to the vote cast for the candidates and forthwith certify and file one complete return with the city clerk and deliver so much of the other as relates to each party to the respective city chairman.

So far as applicable and not otherwise provided herein, the provisions of this Act shall apply to all city primaries, provided that nomination papers therefor shall be filed at least fifteen days, a list of candidates posted and published at least ten days, and the official ballot printed at least four days before the day of holding such primaries.

County conventions.

Party committee.—Section 19. County conventions of each party shall be held in each county after the September primary election, for the purpose of electing delegates to attend a state convention of the party: adopting resolutions regarding the policies and principles of the party; electing a county central committee of the party and a chairman thereof; and performing such other duties as may be authorized by party usage and custom, and not in conflict with law. The membership of such county convention shall consist of the delegates elected at the September primary hereinbefore provided for.

State conventions.

A state convention of each party, the same to consist of the delegates of the party elected at the county convention provided for in this section, shall nominate the candidates of such party for all state offices: adopt resolutions regarding party policies and principles; and perform such other duties as may be authorized by party usage and custom and not in conflict with law.

Proviso.

Provided, however, that this section nor the provisions of this Act shall not apply to or govern the elec-

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tion of delegates to a county convention called for the purpose of electing delegates to a state convention which has been called by the state central committee for the purpose of electing delegates to a national convention of the party. The election of delegates and the organization of conventions for such purpose shall be governed by the general usage and custom of the party and the general laws of the state.

State committeeman.

The delegates of any party from each county to the state convention of said party shall select a state committeeman residing in the county represented by said delegates, and such committeeman shall be a member of the state committee of said party and shall hold office for the period of two years or until his successor is selected.

The state convention shall select the proper officers of its state committee.

Powers of committees.

2. Each committee and its officers shall have the powers usually exercised by such committees, and by the officers thereof, in so far as is consistent with this Act. The various officers and committees now in existence shall exercise the powers and perform the duties herein prescribed until their successors are chosen in accordance with this Act. At all meetings of said city and county committees each member shall have one vote. The duties of the chairman or secretary of any committee may be performed by members of such committee, selected by such chairman or secretary. Any vacancy in any committee or office of said committee shall be filled by the committee.

Miscellaneous provisions.—Section 20.

Tie vote.

1. In case of a tie vote, the tie shall forthwith be determined by lot of the canvassers.

The penal provision.—Section 21.

Misdemeanor.

1. Any person who shall offer, or with knowledge of the same, permit any person to offer for his benefit any bribe to a voter to induce him to sign any election paper to any person who shall accept any such bribe or promise of gain of any kind in the nature of a bribe as

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consideration for signing the same, whether such bribe or promise of gain in the nature of a bribe be offered or accepted before or after such signing, shall be guilty of a misdemeanor and upon trial and conviction thereof be punished by a fine of not less than twenty-five nor more than five hundred dollars, or by imprisonment in the county jail of not less than ten days nor more than six months, or by both fine and imprisonment.

Offenses.

2. Any act declared an offense by the general laws of this state concerning caucuses and elections shall also, in like case, be an offense in all primaries and shall be punished in the same form and manner as therein provided. And all the penalties and provisions of the law as to such caucuses and elections, except as herein otherwise provided, shall apply in such case with equal force, and to the same extent as though fully set forth in this Act.

Forgery.

3. Any person who shall forge any name of a signer or witness to a nomination paper shall be deemed guilty of forgery, and on conviction, punished accordingly. Any person who, being in possession of nomination papers entitled to be filed under this Act, or any Act of the Legislature, shall wrongfully either suppress, neglect, or fail to cause the same to be filed at the proper time in the proper office, shall on conviction, be punished by imprisonment in the county jail not to exceed six months, or by fine not to exceed five hundred dollars, or by both such fine and imprisonment in the discretion of the court.

General election law now in force to apply to provisions of this act.

General election law to apply.—Section 22. The provisions of the statute now in force in relation to the holding of elections, the solicitation of voters at the polls, the challenging of voters, the manner of conducting elections, of counting the ballots and making returns thereof, and all other kindred subjects shall apply to all primaries in so far as they are consistent with this Act, the intent of this Act being to place the primary under the regulation and protection of the laws now in force as to elections.

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Repealing clause.

Conflicting laws repealed.—Section 23. All Acts or parts of Acts inconsistent with or in conflict with the provisions of this Act are hereby repealed.

When act takes effect.

When to take effect.—Section 24. This Act shall not take effect and be in force in any county of the state, until after the same shall have been submitted to and adopted by the qualified electors of such county in the manner hereinafter provided in this Act.

Question of adoption of law to be submitted to people.

Section 25. Upon application by petition or petitions, signed by qualified electors of any county whose names appear on the last general registration list thereof, to the total number of fifteen per cent, or more, of the total votes cast for Justice of the Supreme Court at the last general election in such county, the Board of County Commissioners of such county must order a special election to be held in said county at the places of holding general elections, for the purpose of submitting to the qualified electors thereof the question of adopting in said county, the provisions of the above law providing for party nominations by direct vote of the people.

Such petitions must be considered by the commissioners at a regular quarterly meeting of the board, and for the purposes of determining the sufficiency of such petitions and of the names of the signers thereon, they must compare the names with those on the last general registration list of the county. If they find such petitions to contain the required number of registered electors of the county, they must at that meeting of the board fix a date for holding a special election, which date must not be more than ninety days thereafter, and must direct the county clerk to publish notice of such special election. Such question may be submitted, on separate ballots, at any general election, when petitioned for as above provided, and no special election for submitting such question shall take place in any month in which a general election is held.

Notice of election.

Section 26. The notice of election must clearly state the purpose of the election, and must be published once

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a week for four weeks in such newspapers of the county where the election is to be held, as the board may think proper.

Ballots.

Section 27. The county clerk must furnish the ballots to be cast at such elections, as provided in the general election laws, which ballots must contain the following words: "For the adoption of the law providing for party nominations by direct vote of the people," and "Against the adoption of the law providing for party nominations by direct vote of the people."

The elector shall place and "X" in the square below the proposition he wishes to vote for.

How election held.

Section 28. The polling places must be established, the judges and other officers to conduct the election must be designated, and the election must be held, canvassed and returned in all respects in conformity to the general election law, as provided in Title II, Part III, of the Political Code. No new registration shall be required, but the provisions of Sections 1222 and 1223 of the Political Code shall apply.

County Commissioners to pass resolution.

Section 29. If a majority of the votes cast are "For the adoption of the law providing for party nominations by direct vote of the people," the Board of County Commissioners, upon ascertaining such fact must declare the law adopted, by a resolution entered upon the record of the minutes of such board, which resolution shall show the vote cast for and against such question in each precinct in the county. The law shall be in full force and effect in such county, from and after the entry of such resolution upon the minutes of the board.

Election may be held every two years.

Section 30. No other election on such question must be held in the same county oftener than once in two years thereafter.

Section 31. Any election held under the provisions of this Act for the submission of the above law, may be contested in the same manner as provided in Title II, Part III, of the Code of Civil Procedure.

Provisions applicable to city officers.

Section 32. All the provisions of this Act that are applicable to the nominations of county officers shall be

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equally applicable to nominations for city officers, and in all such cases the city council shall have the powers and duties of the Board of County Commissioners, and the City Clerk the powers and duties of the County Clerk, as provided in this Act.

When act takes effect.

Section 33. This Act shall take effect and be in force from and after its passage, subject to all provisions herein contained for its submission to the electors of the several counties for their ratification or rejection.

Approved March 6th, 1905.

CHAPTER 100.

An Act authorizing the incorporation of endowment and investment companies.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Corporation to carry on endowment and investment business.

Any person or persons, not less than five, may associate themselves together to form a corporation for the purpose of carrying on an endowment and investment business, with the powers herein conferred.

Section 2.

Capital stock.

The amount of capital stock of such corporation shall be fixed and limited by the corporators in their articles of incorporation, and shall be not less than $100,000 and shall be divided into shares of the par value of not less than $25 nor more than $100 each. When not less than $50,000 of the captital stock of any corporation authorized by tbis Act shall have been subscribed, and paid in in cash, such corporation may proceed to do business under this Act.

Capital stock.

The capital stock of any corporation organized under this Act may be increased by a vote of the majority of the stockholders, to an amount not to exceed $5,000,000, and a certificate of such increase of stock shall be filed with the Secretary of State of Montana and become a part of the original articles of incorporation filed in said office.

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Any corporation organized under the provisions of this Act may qualify and proceed to do business within ninety days after filing articles of incorporation, and if it fails to do so its articles of incorporation shall be null and void.

Section 3.

Liability of stockholders.

The stockholders of every corporation authorized by this Act are individually liable for all debts contracted during the time of their being stockholders of such corporation, equally and ratably, to the extent of their respective shares of stock only, in any such corporation held by them at the time such debts were contracted.

Section 4.

Number of persons to incorporate.

Any five or more persons who shall have associated themselves by articles of incorporation, in writing as provided by law, for the purposes included under the provisions of this Act, may be incorporated under any name or title designating such business.

Section 5.

What articles of incorporation to contain.

The articles of incorporation shall set out:

First: The corporate name of the proposed corporation, which shall not be the name of any other corporation heretofore incorporated under the laws of this state for similar purposes, or imitation of such name.

Second: The name of the city or town in which the principal office is to be located.

What articles of incorporation to contain.

Third: The amount of the capital stock of the corporation authorized by the articles of incorporation, the number of shares into which it is divided, and the par value of each share, the amount of the capital stock actually subscribed in good faith at the time of the filing of such articles, and said articles shall further state the actual amount of the capital stock paid up in cash, and in the custody of the persons named as the first board of directors or managers; provided, however, that no corporation organized under this Act shall begin to do business until not less than $50,000 has been actually paid in in cash as aforesaid.

Fourth: The names and places of residence of the

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several shareholders and the number of shares subscribed by each. What articles of incorporation to contain.

Fifth: The number of the board of directors or managers, and the names of those agreed upon for terms hereinafter designated. What articles of incorporation to contain.

Sixth: The number of years the corporation is to continue, which shall in no case exceed fifty years. What articles of incorporation to contain.

Seventh: The purposes for which the corporation is formed. What articles of incorporation to contain.

The articles of incorporation shall be signed and acknowledged by the parties thereto, and shall be filed in the office of the Secretary of State, and the duplicate thereof recorded in the office of the County Clerk and Recorder of the county in which corporation has its principal place of business.

The Secretary of State shall thereupon give a certificate, which shall be attached to a certified copy of the articles of incorporation of said company, setting forth that such corporation has been duly organized, and the amount of its authorized and subscribed capital; and such certificate shall be taken by all courts of this state as evidence of the corporate existence of such corporation. Certificate.

The persons so acknowledging such articles of incorporation, and their associates and successors shall, for the term set forth in said articles of incorporation, be a body corporate; and by such name they and their successors shall be entitled to have, possess, and enjoy all the rights and privileges conferred by law upon corporations, subject to the provisions of this Act. Body corporate.

Section 6.

When any corporation is formed under this Act, any three of those associated may call the first meeting of the corporation at such time and place as they may appoint, by giving notice thereof by publishing the same in some newspaper published at the place where the principal office for the transaction of business is to be located, at least five days before the time appointed for such meeting; but no notice is necessary if all the sub- First meeting.

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scribers to the capital stock unite in a call for such meeting, in writing.

Section 7.

Directors. The affairs of such corporation must be managed by not less than five directors, to be elected by the stockholders, and to hold their office for the terms as follows: If the number of directors of such corporation named in the articles of incorporation shall be five or more in number, they shall, as soon as may be after the organization, divide themselves by ballot into three classes, of equal number as near as may be, designated the first, second and third class, of which the first shall remain in office one year, the second class two years, and the third class three years, and at such annual election, conducted in the manner hereinafter designated, directors shall be elected for the term of three years to fill the vacancies created by the retiring class.

President. Said directors must choose one of their number president, and a majority of them convened according to the by laws, constitutes a quorum for the transaction of business. Said directors to have power to fill any vacancy which may occur in their board, for the unexpired term of such vacancy, and they may elect or appoint such other officers as they may deem expedient. Said directors to have power to increase the number of directors from time to time, in accordance with the provisions of the by-laws of such corporation.

Quorum.

Section 8.

Powers of corporation. Any corporation organized under the provisions of this Act is vested with the following powers, to-wit:

Enumerated. First: It shall be lawful for any such corporation to lease, purchase, hold and convey, all such real or personal property as may be necessary to carry on its authorized business, as well as such real or personal property as it may deem necessary to acquire in the enforcement or settlement of any claims or demands arising out of its business transactions; execute and issue in the transaction of its business all necessary receipts, certificates and contracts, which

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shall be signed by such person or persons as may be authorized and designated by the board of directors of such corporation.

Enumerated.

Second: The directors of any such corporation may call in the remainder, or the unpaid balance of the capital stock not paid in when the corporation is formed, in such installments and at such times and places as they may deem proper, by giving notice thereof as the by-laws prescribe; and in the event of any stockholder neglecting or refusing payment of any such installment within the time prescribed in such call for payment of stock, which call, however, shall not be less than ninety days, the stock of such delinquent stockholder may be forfeited to the company and may be resold by the directors in such manner as the by-laws prescribe. And further provided that no stock which shall have been paid by any subscriber shall be forfeited, but only the amount of the unpaid stock subscribed by such subscribers.

Enumerated.

Third: The board of directors of any such corporation are hereby authorized to invest the capital and assets of said corporation and keep the same invested in good securities; and it is lawful for said corporation to make such investments of its Capital and assets and of the funds accumulated by its business, including money deposits, or any part thereof, in notes or bonds, loans upon collateral, and mortgages on unincumbered real estate, and also in any and all stocks or bonds of any county, city, town or school district of this State, legally authorized to issue such bonds, or bonds of the United States or of any State of the United States.

Insurance.

Whenever buildings are included in the valuation of any real estate upon which a loan is made by any corporation authorized by this Act, they must be insured by the mortgagor in such Company or companies as the directors may require, and the policy of insurance shall be duly asigned, or the loss made payable, "as interest may appear," to such Corporation; and it shall be lawful for such corporation to renew such policy of insur-

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ance in the same, or in any other company or companies, as it may elect, from year to year, or for a longer or shorter term, in case the mortgagor neglects to do so, and may charge the amount paid to the mortgagor; and all the necessary charges and expenses paid by such corporation, for such renewal or renewals must be paid by such mortgagor to such corporation, and it is a lien upon the property so mortgaged, recoverable with interest from the time of payment as part of the moneys secured to be paid by such mortgage.

Section 9.

Purposes for which corporations may be created under provisions of this act.

Corporations may be created under this act for any one or more of the following purposes: First. To receive moneys in trust and to accumulate the same at such rates of interest as may be obtained or agreed upon, or to allow such interest as may be agreed upon, and to issue and sell its contracts or certificates of indebtedness, bearing fixed rates of interest, in whole or in part, with participation or non-participation in the profits of the corporation, and maturing at fixed periods of time or otherwise, as may be fully set forth in said contracts or certificates.

Second: To buy and sell government, State, County, municipal and other bonds, and all kinds of negotiable and non-negotiable and commercial paper, stocks and other investment securities.

Third: To accept, receive and hold money on deposit, payable either on time or demand, with or without interest as may be agreed upon with depositors, and to collect coupons, interest and dividends on said above described securities.

Section 10.

Money payable on demand.

All money or property deposited with such corporation is payable and returnable to the depositor on demand, unless a particular time has been agreed upon for its payment or return, in which case the terms of the agreement, certificate or contract regulate the payment or return.

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Section 11.

Directors to keep accounts.

The directors of such corporation shall keep correct account of their transactions, and have full statements of the condition of affairs of such corporation made out and exhibited to the stockholders as often as once a year, at least ten days before the day of annual election. The books and all records of the proceedings of such corporation shall at all times during their hours of business be open for the inspection and examination by all stockholders and to the Examiner of this State, or to such person or persons as the legislative assembly of said State or the State Examiner, shall designate as agent for such purpose. Every such corporation shall make a report of its condition at the close of its business December 31st, annually to the State Examiner, and at such other times as said Examiner may call for it, under oath of its president or treasurer, attested by a majority of the directors, showing in detail its liabilities and assets, and specifying its investments under the head of loans on mortgages, loans on collateral security, loans on personal security, bonds and stocks, deposits in bank and cash on hand. An officer or clerk of such corporation who shall wilfully make a false oath or affidavit relative to the financial condition of such association shall be deemed guilty of perjury, and upon conviction thereof, shall be punished accordingly.

Report.

Section 12.

Annual statement filed with State Auditor.

The annual statement referred to in Section 12 of this Act shall be filed with the Auditor of State on or before the first day of March in each succeeding year, and the failure to make and file such statement shall cause the directors of such corporation to be personally liable for all of the indebtedness of such corporation, and which liability shall continue until such time as the statement shall be prepared and filed as required in such Section 12.

Section 13.

Name of corporation may be changed.

The stockholders and board of directors of such corporation may change the corporate name thereof, pro-

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vided such change has been duly approved by a majority of the stockholders of the corporation, and in such event a certificate setting forth such change of name shall be filed in the office of the Secretary of State and in the office of the County Clerk and Recorder of the County where such corporation has its principal office, and such certificate shall be attested by the president and secretary of the corporation, with the seal of the corporation affixed, and a majority of the board of directors, and such change of name shall not in any manner be construed to effect or change any of the liabilities or other conditions of the corporation existing under such original name of such corporation.

Section 14.

Branch offices.

The Board of Directors of such Corporation shall have power to establish branch offices or agencies of such corporation at any place within the boundaries of the United States or foreign countries.

Section 15.

Seal.

Every corporation authorized by the provisions of this Act shall adopt and have a corporate seal, which shall bear the name of the corporation and such other matter as the directors may authorize, so as to identify such seal with the corporation to which it belongs.

Section 16.

Annual meeting of stockholders.

The annual meeting and other meetings of the stockholders of such corporations, shall be held at such time and place as shall be designated and set forth in the by-laws of the corporation.

Section 17.

Reserve fund.

All corporations organized under this Act shall maintain a proper and sufficient reserve, which shall be cumulative from time to time to enable such corporation to pay at maturity any and all investment and endowment contracts as the same shall mature, in accordance with the terms thereof.

Section 18.

When act takes effect.

This Act shall be in full effect and force from and after its passage.

Approved March 7, 1905.

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CHAPTER 101.

An Act to Regulate the Speed and Operation of Automobiles and Motor Vehicles on Highways.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Regulating speed of motor vehicle.

No automobile or other motor vehicle shall be run on any public highway outside the limits of a city, fire district or thickly settled or business part of a town at a speed exceeding twenty miles an hour, and no such vehicle shall be run on any public way within the limits of a city, fire district, or of any thickly settled or business part of a town at a speed exceeding eight miles an hour.

Section 2.

Person in control must exercise reasonable precaution.

Every person having control or charge of a motor vehicle or automobile shall, whenever upon any public street or way and approaching any vehicle drawn by horse, mule, horses or mules or any horse upon which any person is riding, operate, manage and control such motor vehicle or automobile in such manner as to exercise every reasonable precaution to prevent the frightening of any such horse or horses, and to insure the safety and protection of any person riding or driving the same.

Shall reduce speed.

And if such horse or horses appear frightened, the person in control of such motor vehicle shall reduce its speed, and if requested by signal or otherwise by the driver of such horse or horses, shall not proceed farther towards such animal unless such movement be necessary to avoid accident or injury, or until such animal appears to be under the control of its rider or driver.

Section III.

On crossings.

Upon approaching a crossing of intersecting ways, and also in traversing the crossing or intersection, the person in control of a motor vehicle shall run it at a rate of speed less than that above specified, and and not greater than is reasonable and proper, having regard to the traffic and the use of the intersecting ways.

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Section IV.

What term "motor vehicle" includes.

The term "motor vehicle" in this Act shall include all vehicles propelled by any power other than muscular power, excepting railroad and railway cars and motor vehicles running only upon rails or tracks.

Section V.

Penalty.

Any person violating any provision of this Act shall be punished for each offense by a fine not exceeding One Hundred Dollars, or by imprisonment for a term not exceeding sixty days, or by both such fine and imprisonment.

Section VI.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section VII.

When act takes effect.

This Act shall take effect and be in full force from and after its passage.

Approved March 7th 1905

CHAPTER 102.

An Act to amend Sub-division VI of Section 403, to amend Section 411, and to add sub-division VIII, to Section 520 of the Civil Code, of the State of Montana, relating to corporations, and to provide for the issuance of preferred stock.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Subdivision VI of Section 403, of Civil Code, amended.

That sub-division VI, of Section 403, of the Civil Code of the State of Montana, be, and the same is hereby amended to read as follows:

Capital stock and number of shares.

The amount of its capital stock and the number of shares into which it is divided, and if there be more than one class of stock, created by the Articles of Incorporation, a description of the Different classes with the terms on which the respective classes are created.

Section 2.

At any time hereafter, any three or more persons who

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Manufacturing and other corporations.

may desire to form a company for the purpose of carrying on any kind of manufacturing, mining, mechanical, or chemical business; of digging ditches, of building flumes, or running tunnels; of purchasing, holding, developing, improving, using, leasing, selling, conveying or otherwise disposing of water powers and the sites thereof and lands necessary or useful therefor, or for the industries and habitations arising or growing up, or to arise or grow up, in connection with or about the same; of purchasing, holding, laying out, platting, developing, leasing, selling, dealing in, conveying or otherwise using or disposing of townsites or towns, or the lots, blocks or subdivisions thereof, or lots, blocks or subdivisions, in any town, village, or city; or of carrying on any other branch of business designed to aid in the industrial or productive interests of the country and the developments thereof or of one or more of the aforesaid branches of business, or for any of the purposes for which private corporations may be formed, as set forth in Section 393 of this Code, must prepare, sign, acknowledge, and file "Articles of Incorporation" in the form and manner provided by Article 1, Chapter 1, Part IV of the Civil Code.

Section 3.

Subdivision VIII of Section 520, of Civil Code, amended.

That a new subdivision to be known as Subdivision VIII, of Section 520 of the Civil Code, of the State of Montana, be, and the same is enacted to read as follows:

To create two or more kinds of stock of such classes, with such designation,, preferences and voting powers, or restrictions or qualifications thereof, as shall be stated or expressed in the Articles of Incorporation; and the power to increase or decrease the stock, as in this Code elsewhere provided, shall apply to all or any of the classes of stock; but at no time shall the total amount of the preferred stock exceed two thirds of the actual capital paid in cash or property; and such preferred stock may, if desired, be made subject to redemption at not less than par, at a fixed time and price, to

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be expressed in the stock certificate thereof; and the holders thereof shall be entitled to receive, and the corporation shall be bound to pay thereon, a fixed yearly dividend, if actually earned, to be expressed in the certificate, not exceeding eight per centum, payable quarterly, semi-annually or annually, before any dividend shall be set apart or paid in the common stock, and such dividend may be made cumulative. Unless its original or amended Articles of Incorporation shall so provide, no corporation shall create preferred stock.

Section 4.

Repealing clause.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 5.

When act takes effect.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 7, 1905

CHAPTER 103.

An Act to enlarge the powers of corporations as to disposing of, or selling their property, and to authorize and empower corporations to dispose of, or sell the whole or any part of their property and to protect the stockholders dissenting from such action.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Corporation may call meeting to consider question of disposing of the whole or a part of corporate property.

That the Board of Directors or Trustees of any stock corporation organized under the laws of either the Territory or State of Montana, whether before or after the passage of this Act and whether the same is solvent or insolvent, or whether it is a going or prosperous concern or otherwise, shall have power, and upon request of stockholders of the corporation representing at least one half of the outstanding capital stock, and of record on the books of the company, it shall be their duty to call, by resolution, a meeting of the stockholders of such corporation, appearing as such upon the books of the

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corporation, for the purpose of considering the question of selling, or disposing of the whole or any part of the property and assets of every kind and description of such corporation. Such meeting shall be held at the principal office or place of business of such corporation, and at least thirty days previous notice of the time and place of such meeting shall be given to each person who appears as a stockholder upon the books of the corporation. The secretary of the corporation shall make out and deposit in the United States Post Office, postage paid, a notice of such meeting, directed to each stockholder of record of the corporation by his name and to his place of residence appearing on said records, and shall make and file this affidavit of such deposit. Such notice shall be considered as given upon the deposit of the same in the Post Office, as above required, and it shall state the time and place of meeting and that the meeting is to consider and decide upon the question of disposing of, or selling the whole or any part of the property of said corporation. If such meeting is called for the purpose of selling, or disposing of the whole of the property of the corporation, the notice shall so state, but if it is for the purpose of selling or otherwise disposing of only a part of the property of the corporation, the notice shall so state and describe generally what part it is. A similar notice shall also be published, at least once a week for at least four successive weeks preceding the day of the stockholders' meeting, in some newspaper of general circulation published at or near the office or principal place of business of such corporation, or if there is no newspaper published in said place, then the nearest place thereto where a newspaper is published, and said publication shall be proven by affidavit of the publisher or clerk of such newspaper, filed with the Secretary of such corporation. Upon the day appointed for said meeting, if stockholders representing at least two-thirds of the whole number of shares of the capital stock of the corporation then outstanding and of record on the books of the company,

Where meeting held.

Duty of secretary.

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appear in person or by agents or proxies filed with the secretary, the stockholders shall organize by electing one of their number chairman and some suitable person secretary.

What may be done at meeting.

Thereupon, any proposition for the sale or disposition of the whole or any part of the property or assets of the corporation, of every kind or description, may be considered and acted upon by said meeting, and if stockholders representing at least two-thirds of the whole number of shares of the capital stock of said corporation then outstanding, and of record on the books of the company, appearing at said meeting in person or by agents or proxies as above provided, vote in favor of any such proposition, whether proposed by the directors or trustees or not, as the stockholders may see fit, which proposition shall be in the form of a resolution specifying the particulars thereof and entered on the minutes of said stockholders' meeting, the said proposition or resolution shall be taken and adopted as the act of the corporation and shall be carried out as such and shall be approved and adopted by the Board of Directors or Trustees. The secretary of such meeting shall enter upon the minutes of said stockholders' meeting the number of shares voted for or against the proposition or resolution, and by whom voted, and stockholders voting against said proposition or resolution shall be taken as dissenting therefrom. Upon the adoption of any proposition or resolution such as above referred to, by the stockholders' meeting, the secretary of the meeting shall make out a true and complete copy of the minutes of the Stockholders' meeting, which shall be signed by the chairman of such meeting and attested by said secretary and verified by them and acknowledged as required in the case of the conveyance of real estate, and shall file the same for record in the office of the county clerk and recorder of the county wherein the principal office or place of business of such corporation is situated, and also in the office of the county clerk and recorder of any other counties wherein any of the real

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property included in the proposition or resolution adopted by said stockholders' meeting is situated, and said record shall impart notice and have the same effect as other instruments required by law to be recorded, and such copies so filed and recorded, or the record thereof, or the certified copy of such record, shall be prima facie evidence of the matters and facts therein stated, and thereupon, and upon the adoption and approval by the Board of Directors or Trustees of the corporation of such proposition or resolution, the corporation and its officers shall have full power and authority to do all acts and to execute all conveyances or other instruments in writing which are necessary or proper to carry out the said proposition or resolution, and the sale, or conveyance of the whole or any part of the property of said corporation authorized by said proposition or resolution, shall thereupon take effect and have the same force as if all the stockholders of the corporation had consented thereto:

Proviso. Provided, that nothing contained in this Act shall be deemed to limit or restrict the powers of the Board of Directors or Trustees of such corporations in relation to the disposition of property or the conduct of business:

Proviso. Provided further, that this Act shall not be so construed as to effect any cases now pending in the courts of this state or of the United States.

Section 2.

Dissolution. If a disposition shall be made by sale, as above provided of the whole of the property of such corporation, the corporation shall thereby be dissolved, and its affairs shall be wound up, as provided for in other cases of the dissolution of corporations.

Section 3.

Duty of stockholder dissenting. Any stockholder who shall not, at said stockholders' meeting, have voted for or authorized the proposition or resolution for the disposition of property which may have been adopted at such stockholders' meeting may, within twenty days after the date of the stockholders'

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meeting, give written notice to the said corporation that he does not assent thereto and also a like notice to the grantee or vendee, or any agent or representative of such grantee or vendee; provided, that such grantee or vendee, or agent or representative of such grantee or vendee be within the state, and demand payment of the value of his stock, and within ten days after service of said notice he must, or the said corporation, or its grantee or vendee, may, make application in the district court of the county where the principal place of business of the corporation is situated to have the value of his stock fixed and appraised, of which application at least ten days previous notice must be given by the person so applying to the other parties. The notices hereinbefore provided for may be served in the manner provided by law for the service of summons in cases in the district court. Upon said application, the said district court shall appoint three competent and disinterested persons as appraisers, and designate the time and place of their first meeting to appraise the value of the stock of such dissenting stockholders, and give then such directions as the said court may think proper. The court may fill any vacancies in the board of appraisers, occurring by refusal or neglect to serve, or otherwise. Said appraisers shall meet at the time and place designated by the court, and they or any two of them shall take an oath to honestly and faithfully discharge their duties, and shall hear and take evidence in relation to the value of the stock of such dissenting stockholder at the time of his dissent and find the value thereof, and return and file their report and appraisement with the clerk of said court. The charges and expenses of such appraisement shall be paid by the corporation or its grantee or vendee.

Stock to be appraised.

Section 4.

May appeal from appraisement.

Either party to the appraisement and award of such appraisers may, within thirty days from the filing of the same and service of notice thereof, appeal from such award to the district court of the county in which the

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same is made and filed, and thereupon the value of such stock shall be re-assessed by a jury in the same manner as appeals are taken and trials had on appeals from the assessment of commissioners in condemnation proceedings provided by law. When such appraisement or award shall become final, the court shall enter judgment in favor of such dissenting stockholder and against the corporation and its grantee or vendee for the amount of said award, with expenses and costs of proceedings, and execution may be issued on said judgment as in other cases. The judgment may also provide for the sale of the property affected by the lien hereinafter provided for. The claim of such dissenting stockholder for compensation and costs, as aforesaid, and the appraisement and award and judgment thereon shall be and remain a lien upon all the real property of the corporation so conveyed or disposed of in pursuance of the stockholders' resolution, and shall be prior and superior to the rights of the grantee or vendee to all such property; but the claims of all dissenting stockholders for compensation and their several appraisements, awards and judgments, shall be equal liens upon said property, without precedence or priority between themselves. When the amount of such appraisements and costs shall have been paid to or collected by such dissenting stockholder or deposited with the clerk of the said court for him, he shall cease to have any interest in said stock or in the corporate property of such corporation which may have been sold or disposed of in pursuance of the resolution of the Stockholders' meeting as herein provided, and the stock of such dissenting stockholder shall thereupon become the property of the party satisfying the said judgment or appraisement unless otherwise provided for by contract between such corporation and its grantee.

Claim of dissenting stockholder a lien upon corporate property.

Section 5.

Nothing in this Act shall be deemed to limit or effect anything contained in the act of the sixth Session of the Legislative Assembly, entitled.

Not to affect House Bill No. 132.

HOUSE BILL NO 132

An Act to enlarge the powers of mining corporations to dispose of, sell, lease, mortgage, exchange, or otherwise convey, all or any part of the property of such corporations, and to authorize and empower such corporations to dispose of, sell, lease, mortgage, or otherwise convey, the whole or any part of the property of such corporations, and to protect stockholders dissenting from such actions of such corporations.

Section 6.

When act takes effect.

This Act shall take effect and be in full force from and after its passage and approval by the Governor.

Approved March 7, 1905.

CHAPTER 104.

An Act regulating Foreign Corporations and Joint Stock Companies doing a Banking Business within the State of Montana, and prescribing penalties and punishments for violations of the provisions thereof.

Be it Enacted by the Legislative Assembly of the State of Montana:

Relating to foreign corporations and joint stock companies doing banking business.

Section 1. No foreign corporation or joint stock company, other than a National Bank, shall keep any office for the purpose of receiving deposits or discounting notes or bills, or buying and selling exchange, coin, or bullion, or shall do any banking business whatever, within this State, except as hereinafter provided.

May establish branch bank.

Section 2. Any foreign corporation or joint stock company may establish and maintain a branch bank in any city, town or village in this State, upon complying with the following requirement, and obtaining a certificate from the State Auditor, as hereinafter provided. (a) That is to say,—such foreign corporation or joint stock company shall set aside and pay into the Treasury of such branch bank a sum of money, at least, equal to the amount of capital stock required for a

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National Bank at the place where such branch bank may be located, which payment shall be certified under oath to the State Auditor by the local manager of such branch bank. Requirements.

Section 3. The State Auditor shall, upon compliance with the foregoing requirements, issue a certificate to such branch bank, stating that it has complied with the provisions of this Act and is entitled to do a banking business at the place designated in such certificate. A new certificate shall be issued by the State Auditor on the 1st day of January in each year, provided that the capital herein required shall be unimpaired and the other provisions of this Act have been complied with. Certificate.

Section 4. Every such branch bank of any foreign corporation or joint stock company doing a banking business in this State, shall at all times have on hand in such branch bank, in lawful money of the United States, an amount equal to at least ten per centum (10%) of the aggregate amount of its deposits of all kinds. Whenever the said reserve fund shall be below twenty per centum (20%) of such deposits, such branch bank shall not increase its liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange payable at sight, nor make any dividend of its profits until the required proportion between the aggregate amount of its said deposits and its lawful money of the United States has been restored. The State Examiner may notify such branch bank whose lawful money reserve shall fall below the amount required to be kept on hand, to make good such reserve, and if such bank shall fail for thirty days thereafter so to make good its reserve of lawful money, the State Auditor shall thereupon cancel the certificate theretofore issued by him to such branch bank. Must keep on hand ten per centum of aggregate deposits. To make good reserve.

Section 5. Every such branch bank of any foreign corporation or joint stock company shall make to the State Examiner not less than five reports during each year, all at his call, not less than two calendar months Reports.

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to intervene between each call, according to the form which may be prescribed by him, verified by the oath or affirmation of the resident manager or cashier of such branch bank, which said statement must contain a full abstract of the general accounts of the bank, and exhibit in detail under appropriate heads, the resources and liabilities thereof, so as to plainly show all of the resources and liabilities, and the amount and kind thereof; which said statement shall be transmitted to the State Examiner within five days after the receipt of the request or requisition therefor made by him; and in such condensed form as may be required by the State Examiner, it must be published once in a newspaper of general circulation in the place where such bank is located, or if there be no newspaper of general circulation published in such place, then in one published nearest thereto within the County, and at the expense of the bank, and such proof of the publication of such statement shall be furnished as may be required by the State Examiner. The State Examiner shall also have power to call for special reports from any branch bank, whenever in his judgment the same are necessary in order to have a full and complete knowledge of its condition.

Special reports.

Section 6. In addition to the reports required by the preceding Section, every such branch bank of any foreign corporation or joint stock company shall report to the State Examiner within ten days after declaring any dividend, the amount of such dividend and the amount of net earning in excess of such dividend. It shall also make a semi-annual report on the 30th day of June and the 31st day of December of each year, in such form as shall be prescribed by the State Examiner, showing the amount of the earnings of such branch bank and the amount of the dividends, if any, for the preceding six months. Such reports shall be attested by the oath of the resident manager or cashier of such branch bank.

To report dividends, etc.

Section 7. It shall be unlawful for any officer, clerk

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or agent of any such branch bank to certify any check drawn upon the same, unless the person or company drawing the check has on deposit with such branch bank at the time such check is certified an amount of money equal to the amount certified in such check. If any such officer, clerk or agent shall resort to any device or receive any fictitious obligation, direct or collateral, in order to evade the provisions hereof, or if he shall certify checks before the amount thereof shall have been regularly entered to the credit of the dealer upon the books of such branch bank, every such act shall be deemed a violation of this Section and be subject to the penalty hereinafter prescribed. Any check so certified by duly authorized officers shall, however, be a good and valid obligation against such branch bank.

Deposit must be equal to amount of certified check

Obligation against bank.

Section 8. If any such bank neglects to make out or transmit the statements and proof of publication thereof required by this Act, it shall be subject to a penalty of Twenty Dollars for each day in default after the periods respectively required by this Act that it may delay to make and transmit any such statement. And should any such bank delay for the period of one month beyond the period when the same is required to be made, to make out and transmit the statements required to be made by this Act, or wilfully violate any provisions of this Act, then it shall be the duty of the State Auditor to cancel any outstanding certificates issued by him.

Failure to make statement.

Section 9. The total liabilities to any such branch bank of any person or of any company, corporation or firm for money borrowed, including in the liabilities of a company or firm, the liabilities of the several members thereof, shall at no time exceed one-tenth of the amount of the capital actually paid in and in use in such branch bank. But the discount of bills of exchange drawn in good faith against existing values, and the discount of business or commercial paper actually

Liability of persons to bank.

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owned by the person negotiating the same, shall not be considered as money borrowed.

Capital not to be withdrawn.

Section 10. Neither any portion of the capital required by this Act, nor of the surplus or deposits of such branch bank shall be withdrawn therefrom by said foreign corporation or joint stock company and kept or used in any other branch bank of such corporation or joint stock company except so far as shall be necessary and proper in the ordinary course of the banking business of the local branch bank.

State Examiner to examine affairs of branch bank.

Section 11. The State Examiner, as often as he shall deem it necessary and proper, and at least once in each year, shall in person or by suitable assistant or assistants, make an examination of the affairs of such branch bank, and shall have power to make a thorough investigation into all the affairs of such branch bank, and in doing so, examine any of the officers, agents or employees thereof, on oath, and shall make a full and detailed report of the condition of such branch bank to be kept in the files of his office. And for the purpose of contributing to the expense and maintenance of the State Examiner's office, every such branch bank shall pay into the State Treasury for the "State Examiner's Fund," on or before the 1st day of November of each year, a fee according to the capitalization of such branch bank, at the following rate: For a capital stock of from Twenty-five to Fifty Thousand Dollars inclusive, a fee of $50.00; for a capital stock of over Fifty Thousand Dollars and up to Seventy-five Thousand Dollars inclusive, a fee of $75.00; for a capital stock over Seventy-five Thousand Dollars, up to One Hundred Thousand Dollars or more, a fee of $100.00.

Shall contribute to expense of State Examiner's office.

Fee.

State Auditor may cancel certificate.

Section 12. Whenever it shall appear from any examination authorized by this Act that the capital of such branch bank has become impaired, or that any portion thereof has been withdrawn from said branch bank by such foreign corporation or joint stock company, then it shall be the duty of the State Auditor to cancel any outstanding certificate issued by him.

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Not to misrepresent capital.

Section 13. No such branch bank of any foreign corporation or joint stock company doing a banking business in this State shall make use of or circulate any letter heads, bill heads, blank notes, blank receipts, blank check books, certificates or circulars wherein a greater amount of capital is claimed than the actual capital of such branch bank, nor shall it otherwise in any manner advertise or set forth any such claim.

Capital of such branch bank not liable for redemption of liability of foreign corporation.

Section 14. No portion of the capital, surplus, deposits or other assets of a branch bank of any foreign corporation or joint stock company doing a banking business in this State shall be liable for the redemption of any circulating notes or bills of such foreign corporation or joint stock company, nor for any other liabilities thereof whatsoever, except for those arising out of the business of such branch bank.

How act construed.

Section 15. In construing this Act every corporation or joint stock company, other than a National Bank, not organized under the laws of the Territory or State of Montana, shall be deemed a foreign corporation or joint stock company, as the case may be; provided, that this Act shall not apply to any corporation which at the time of its approval may be openly and lawfully engaged in banking at a known & fixed place of business within this State.

Officer making false statement or false report or making false entry on the books.

Section 16. Every officer or other person mentioned and authorized by this Act who wilfully and knowingly makes any false statement of facts, statement or report, and every officer, agent or clerk of any such branch bank who wilfully and knowingly makes any false entries in the books of such branch bank, or knowingly subscribes or exhibits false papers with the intent to deceive any person authorized to examine as to the condition of such branch bank, and every person authorized by the provisions of this Act to make statements or reports, who wilfully and knowingly subscribes or makes any false statement or report shall be deemed guilty of felony, and upon conviction, subject to imprisonment at hard labor in the State Prison

Felony.

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Penalty.

for a term of not less than one year nor more than ten years, for each offense.

Additional penalty.

Section 17. In addition to the penalties and punishments recited in the previous Sections of this Act, every foreign corporation or joint stock company and every officer, agent or employee thereof violating any of the provisions of this Act, shall in addition to the penalties and punishments heretofore provided in this Act, forfeit and pay to the State of Montana, the sum of One Thousand Dollars. Such forfeiture may be recovered in an action by the Attorney General in the name of the State of Montana, brought in the District Court of the county where the branch bank shall be located.

Repealing clause.

Section 18. All Acts and parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 19. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 7th, 1905.

CHAPTER 105.

An Act to enable the State to accept an offer of the United States, made by an Act of Congress, in relation to the Arid Lands, commonly known as the Carey Act, approved August the 18th, 1894, and the amendments thereto, and to promote the reclamation and settlement of said lands, and to reimburse the State for money heretofore or hereafter used for such reclamation, by defining additional duties and powers of the Carey Land Act Board, relieving the State of liability, providing the method of letting contracts for the reclamation and settlement of said arid lands, providing for the ratification of contracts, for the classification and disapproval [disposal] of said lands, disposition of funds thus derived, making water rights appurtenant to the land reclaimed, granting the contractor constructing works for reclaiming such lands a lien upon the same and the water right appurtenant thereto for the purchase price of

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such water right and providing for the foreclosure and redemption of the same, permitting the use of water for power purposes subject to rights of irrigators, permitting the exercise of the right of eminent domain in connection with such reclamation work and providing for the conveyance of [by] the said Board of any property acquired by the State, the Conveyance of which is necessary to the maintenance of any action of [or] defense by the State in reference to such lands, fixing fees, appropriating funds and repealing from conflicting laws. Arid lands.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. The Carey Land Act Board shall have, and it is hereby granted, full power and authority to take all steps necessary to comply with all and singular the conditions of an Act of Congress approved August 18, 1894 entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30th 1895 and for other expenses" and all Acts amendatory thereto now in force or which may hereafter be enacted providing for the reclamation of desert lands by states within whose borders the same may lie, and Acts pertaining thereto, to the end that the State may receive the full benefit and advantage accruing to it from the same. Said Board shall have, and it is hereby given, full power to prepare and file any map or maps of any land or lands proposed to be irrigated and reclaimed, which shall exhibit the plan showing the mode of contemplated irrigation and the sources of water to be used for such irrigation and reclamation and to enter into contracts on behalf of the State with the United States for the reclamation and irrigation of such lands; provided, that, said Board shall have no power, by any such contract, to create any indebtedness against the State or to obligate the State to pay to the United States or to anyone anything on account of such lands. Carey Land Act Board.

Section 2. The said Board shall have, in the man-

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Contracts heretofore made confirmed.

ner hereinafter provided, authority to enter into contracts for the reclamation and irrigation of any such lands, in respect to which contract may be or may have been entered into, between the State and the United States, and for placing settlers thereon and any and all contracts heretofore entered into by said Board for the reclamation, irrigation and settlement of any lands, for the reclamation and irrigation of which the State has heretofore entered into contracts with the United States are hereby ratified and confirmed; provided however, that nothing in this Act shall be construed as authorizing the Board to obligate the State to pay for any work constructed under any contract, or to hold the State in any way responsible to settlers for failure of contractors to complete the work according to the terms of their contract with the State.

Rules and regulations of Board.

Section 3. Said Board shall have power to make such rules and regulations for the conduct of its business as may be necessary, which do not conflict with the Acts of Congress relating to Carey Lands, or laws of Montana.

Members not to be financially interested.

Section 4. No member of the Board or any employee thereof shall in any way be financially interested in any contract or work contemplated by this Act.

Request for selection of land to be filed.

Section 5. Any person or persons, company, association or corporation, constructing, having constructed or desiring to construct ditches, canals or other irrigation works to reclaim land under the provisions of this Act, may file with the Board a request for the selection, on behalf of the State by the Board, of the land to be reclaimed, describing said land by the Government survey. This request shall be accompanied by a proposal to construct the ditch, canal or other irrigation works necessary for the reclamation of the land asked to be selected and to put settlers on the same. The proposal shall be prepared in accordance with the rules of the Board and with the regulations of the Department of the Interior. It shall state the source of an available and adequate water supply, the loca-

What to contain.

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tion and dimensions of the proposed works, the estimated cost thereof, and that perpetual water rights inseparable from the land reclaimed and to embrace a proportionate interest in the canal or other irrigation works, will be sold or leased to settlers on the land to be reclaimed, and be accompanied by a map of the lands to be reclaimed and the route of the ditches or canals to be constructed.

Section 6. Whenever the State Engineer shall in his judgment, from an examination of the maps and field notes submitted for his examination be unable, to determine whether or not the proposed irrigation works are feasible and adequate, whether or not the proposed cost of construction is reasonable, and whether or not the lands proposed to be irrigated are of such character as to come under the provisions of the aforesaid Acts of Congress, the Board may direct the Engineer to make, or cause to be made by some qualified assistant, such survey or examination as will enable him to report intelligently thereon to the Board.

Board to cause survey.

Section 7. If such request shall be approved by the Board it shall forthwith cause reservation of such lands to be made and enter into appropriate contract with the United States, subject to the limitations by this Act prescribed for the reclamation of the same. When requests or proposals are not approved by the Board, the Board shall notify the parties making such proposal of such action and the reason therefor. The parties so notified shall have sixty days in which to submit a satisfactory proposal, but the Board may at its discretion extend the time to six months.

Board to reserve lands.

Notice.

Section 8. Any person wishing to reclaim land under this Act, may apply to the Board for a reconnaissance, or a preliminary survey, and the Board shall require from such applicant a deposit of such an amount as in its judgment will defray the expense thereof; and cause such survey to be made by the State Engineer, and thereafter the unused part of such deposit, if any, shall be returned to such person.

Survey.

Persons at whose instance such reservations are made shall pay all land office fees and furnish necessary maps; provided; that the provisions of this Section shall not apply to co-operative projects described in Section 12 of this Act.

Contract.

Section 9. Upon contracting with the United States for the reclamation of such lands, it shall be the duty of the Board immediately to enter into a contract with the parties submitting the proposal in accordance therewith, which contract shall contain complete specifications of the location, dimensions, character and estimated cost of the proposed ditch, canal or other irrigation works, the date or dates when the contractor will put settlers on the reclaimed land, and the price and terms upon which the State is to sell or lease the land to the settlers. The proposed contractor shall execute a bond in such an amount and with such sureties as the Board shall require, to be conditioned upon the faithful performance of the contract with the State, and in case he shall fail within sixty days after being notified by the Board that it has contracted with the United States for the reclamation of the said lands and is ready to enter into a contract with him in accordance with his proposal, or if he shall fail within such time to execute such bond, the said Board may enter into similar contract with any other person, exacting a like bond.

Limit of contract.

No contract shall be made by the Board which requires a greater time than five years for the construction of the works, and all contracts shall state that the work shall begun within one year from the date of contract, and thereafter to be prosecuted diligently to completion.

Water for power purposes.

Section 10. The builder of any such canal or other irrigation works, shall have the right to so construct or to subsequently enlarge or make such changes in the same as will permit the water to be used for power purposes; and to use any surplus water carried therein for such purpose; such construction, enlargement,

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change or use to be done without cost to, or interference with, any purchaser or owner of a perpetual water right from such canal. All income from the use of such water for power shall belong to said builder, his heirs or assigns; but the use for power development shall be subordinate to the irrigation and domestic use of the water and shall not interfere in any way with perpetual rights.

Person constructing canals, etc., may operate same.

Section 11. Any person or company entering into a contract to construct canals or other irrigation works and to sell water rights to settlers under this Act, may maintain and operate the same until perpetual water rights appurtenant to ninety per cent of the lands, to reclaim which such works were constructed, have been sold and paid for, when such works shall be turned over to the settlers and others owning rights to take water from such canals, who shall have the right thereafter to maintain and operate it. The contractor, so long as he maintains and operates the irrigation works, shall have the right to collect from settlers on such lands not to exceed one dollar per acre, per year, for each acre of land to which his or her water right is appurtenant, said charge to include the cost of maintenance, operation and delivery of water to said land.

Duty of Board

Section 12. It shall be the duty of the Carey Land Act Board to aid co-operative reclamation projects as follows:

Parties desiring such aid shall incorporate as a Co-operative Irrigation Association for the purpose of reclamation by their own labor of arid lands open to reservation under the said Acts of Congress and of the settlement upon said lands. Each member shall subscribe to one share of the stock for each forty acre tract of land to be filed upon and reclaimed by him, and the total number of shares issued by such Association shall be limited to one for each forty acres of land filed upon. After the articles of incorporation are filed with the Secretary of State, the fee for which shall be five dollars, the Association may apply to the Carey Land Act

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Board for aid and it shall be the duty of the State Engineer, or his assistant, under such rules and regulations as the Board may adopt, to investigate the proposed project and if found feasible, to prepare the maps and data required for reserving the land under the Carey Act and subsequently to furnish the Association with the engineering plans necessary for reclamation and to exercise a general supervisory control over their execution. Thereupon the said Board shall, if in the judgment of the State Engineer the reclamation of such land is feasible and practicable, cause the same to be reserved and contract with the United States subject to the same limitations as hereinbefore provided, for the reclamation of the same. The Association shall pay the United States Land Office fees for the reservation of the lands and immediately after contract shall have been entered into with the United States shall pay to the Carey Land Act Board twenty-five cents (25) per acre filing fee for each acre reserved. When all or any part of said land has been reclaimed the Board shall apply for patent for same, provided, that all cash outlay required for obtaining patent shall be paid to the Board by the Association immediately.

Deeds to issue

After water has been available for irrigation of said lands for four seasons, the Association shall not later than Nov. 1st, of said fourth season, pay to the Carey Land Act Board such additional amount not exceeding One Dollar ($1.00) per acre as may have been agreed upon between said Board and such Association before the reservation was made, for all said land patented to the State and thereupon deeds shall be issued by the State to each of the stockholders of said Association having settled upon any of said lands, for so many acres as their stock may entitle them to respectively.

After the State has obtained patent it may issue deeds at any time when the land is paid for, in tracts of not less than 40 acres nor more than 160 acres to any stock-

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holder designated by the Association, being a settler upon any of said lands.

Water rights for said lands shall be appurtenant to and inseparable from the legal subdivision for which it was appropriated.

Board to give written notice.

Section 13. Upon the failure of any parties having contracts with the State for the construction of irrigation works, to begin the same within the time specified by the contract or to complete the same within the time or in accordance with the specifications of the contract with the State or on a cessation of work under the contract for a period of six months after the second year, it shall be the duty of the Board to give such parties written notice of such failure, and if, after a period of sixty days from the receipt of such notice they shall have failed to proceed with the work or to conform to the specifications of their contract with the State the penal bond securing performance of such contract shall at once be and be declared forfeited to the State and the contract, in so far as it relates to any of said land not settled or reclaimed, shall immediately thereafter be void.

Attorney General to institute and defend suits.

On the application of the said Board the Attorney General shall be required to institute or defend any suits or actions in which may, in any manner be brought in question the rights of the State in any lands in which the State has acquired any interest under any of the said Acts of Congress, and the said Board is hereby authorized and empowered in the name of the State, to execute any conveyances of any property, the title to which is in the name of the State by reason of any Acts of the said Board or its predecessor the Arid Land Grant Commission, a conveyance of which is necessary to, or made a condition of, the relief asked for by the State in any such action.

Land to be classified.

Section 14. The Board shall cause to be classified all lands reserved under this Act, the expenses for which shall be paid by the State out of the funds in the Carey Land Act Fund if any; if none, then out of

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funds not otherwise appropriated, upon vouchers duly approved by the Board. The Board shall sell or lease any or all of the lands acquired by the State under provisions of this Act in quantity not to exceed one hundred and sixty acres to one individual, the price and terms of such sale or lease to be fixed by the Board according to said classification, provided, the selling price be not less than fifty cents per acre nor more than two dollars and fifty cents per acre.

Who may make application to enter lands.

Section 15. Any citizen of the United States, or any person having declared his intention to become a citizen of the United States, over the age of twenty-one years, may make application, under oath, to the Board, to enter any of said land at any time after the same has been classified, in any amount not to exceed one hundred and sixty acres for any one person; and such application shall set forth that the person desiring to make such entry does so for the purpose of settlement in accordance with the Act of Congress and the laws of this State relating thereto, and that the applicant has never received the benefit of the provisions of this Act, to an amount greater than one hundred and sixty acres, including the number of acres specified in the application under consideration. Such application must be accompanied by a certified copy of a contract for a perpetual water right, made and entered into by the party making application with the person, company or association who have been authorized by the Board to furnish water for the reclamation of said lands; and if said application [applicant] has at any previous time entered land under the provisions of this Act, he shall so state in his applications, together with description, date of entry and location of said land. The Board shall thereupon file in its office the application and papers relating thereto, and, allowed, issue a certificate of location to the applicant. All applications of entry shall be accompanied by a payment of twenty-five cents per acre, which shall be paid as partial payment on the land if the application is allowed; and all

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certificates when issued shall be recorded in a book to be kept for that purpose. If the application is not allowed the twenty-five cents per acre accompanying it shall be returned to applicant; provided, that where the construction company fails to furnish water to any settler under the provisions of its contract with the State, the State shall refund to such settler all payments that he shall have made to the State.

First settler has prior right to enter.

Section 16. The Claimant first settling upon any such lands shall have the prior right to enter the same; provided, however, that if any claimant shall fail within sixty days after his settlement upon any such lands, if the same have been classified, or within sixty days after the classification thereof, if the same was not made at the time of settlement, shall file his application to enter the same with the said Board and make the payment required therewith; otherwise, claim is forfeited and the tract shall be awarded to the next settler in the order of time, on the same tract of land, who has filed his application, made payment and otherwise complied with the conditions of the law.

Deed to issue.

Section 17. After the State has received a patent for any such land reclaimed, and a purchaser has paid in full for any part of it, said Board shall, in the name of the State, execute and deliver to him a deed for the same.

Right may be forfeited.

Section 18. If any claimant having filed on any such land shall fail for a period of one year after water is available for his land, and after notice thereof is given to him by said Board, by letter mailed to the post office nearest such land, to make payment of any sums remaining due on account of the purchase price for such land, then, after notice shall have been published once a week for four successive weeks in a newspaper of general circulation in the County where the land is located, his or her rights to any, and all such land and any water right appurtenant to the same and all payments made, shall be forfeited.

Section 19. The water rights to all lands acquired

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Water rights attach to land

under the provisions of this Act shall attach to and become appurtenant to the land as soon as title passes from the United States to the State. Any person, company or association, furnishing water for any tract of land shall have a first and prior lien on said water right and land upon which said water is used, for all deferred payments for said water rights; said lien to be in all respects prior to any and all other liens created or attempted to be created by the owner or possessor of said lands. Upon default in any of the deferred payments secured by any lien under the provisions of this Act, the person, company of persons, association or incorporated company holding or owning said lien, may foreclose the same, in the same manner as mortgages or real property are foreclosed. All sales shall be advertised in a newspaper of general circulation, published in the County where said land or some part thereof is situate, for six consecutive weeks, and the same shall be sold to the highest bidder at the front door of the court house of the County, of such place as may be agreed upon by the terms of the aforesaid contract. The sheriff of said County shall in all such cases give all notices of sale and shall sell all such land and water rights and shall make and execute a certificate of sale to the purchaser thereof, and such sale no person, company of persons, association or incorporated company, owning and holding any lien shall bid in or purchase any land, or water right at a greater price than the amount due on deferred payment for said water right and land, and the cost incurred in making the sale of said land and water right. At any time within twelve months after the foreclosure sale by the sheriff of the land and water right as aforesaid, the original owner against whom the lien has been foreclosed, may apply to the person, company of persons, association or incorporated company purchasing at such sale, to redeem said land and water rights, and the purchaser shall assign the certificate of sale to such land and water rights to such original owner,

Sales advertised.

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upon the payment by him within such twelve months, of the amount of the lien for which the same was sold at such foreclosure sale, together with the interest at ten per cent annum, costs and charges thereon. Where the lien holder becomes the purchaser such foreclosure sale, if such lands and water rights are not redeemed by the original owner within twelve months, then at any time within three months thereafter any person desiring to settle and use such lands and water rights may apply to the purchaser at such foreclosure sale to redeem such land and water rights, and such purchaser shall assign the certificate of sale of such land and water rights to the person desiring to redeem the same, upon the payment by him, of the amount of the lien for which the same was sold at such foreclosure sale, together with the interest, costs and charges thereon. Upon issuing any certificate of sale, it shall be the duty of the sheriff to file for record in the office of the County Clerk of the County where such land is situated, a certified copy of such certificate of sale, and in case the original owner shall redeem the land and water rights sold as aforesaid, he shall file for record in the office of such County Clerk the certificate of sale assigned to him by the purchaser as aforesaid, upon his redemption of such land and water rights. In case the land and water rights shall be redeemed by any person other than the original owner, the sheriff shall, upon presentation of such certificate, issue a deed for such land and water rights to the person redeeming the same. If the land and water rights shall not be redeemed by any person within the time and in the manner hereinbefore provided, it shall be the duty of the sheriff, upon presentation of certificate of sale by the original purchaser, to issue a deed such purchaser. Where such land and water rights are not purchased by the lien holder at such foreclosure sale, it shall be the duty of the sheriff to first pay the lien holder out of the proceeds of such sale the amount of the lien together with all interest, costs and charges

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thereon, and to pay any balance remaining to the person against whom such lien has been foreclosed, and for his services in such cases the sheriff shall receive the same fees as are provided by law in civil cases.

Under no circumstances shall a lien foreclosed against land belonging to the state and not filed on by an individual. In case the claimant whose rights to any such land and water shall have been divested by any deed issued, as in this Section provided, shall not have paid to the State sums due or to become due to it on account of such land; any person desiring to settle upon the same shall acquire the right so to do upon payment to the grantee under such sheriff's deed of the amount which would have effected a redemption at the time with ten per cent additional; provided, that the holder under the deed shall have the right to remove any crops which may be growing upon such land at the time such intending settler offers to pay such sum.

What maps shall show.

Section 20. The map in the office of the Board, of the lands selected under the provisions of this Act, shall show the location of the canals or other irrigation works approved in contract with the Board, and all lands filed upon shall be subject to the right of way of such canals or irrigation works. Said right of way to embrace the entire width of the canal and such additional width as may be required for its proper construction, operation and maintenance, the width of the right of way to be specified in the contracts provided for in this Act.

Right of eminent domain.

Section 21. The right of eminent domain may be exercised in the manner prescribed by the Code of Civil Procedure by any person association or corporation, foreign or domestic entering into any contract with the said Board to reclaim any lands in order to condemn any property subject to condemnation as therein provided, for right of way for the construction of which may be provided for by any such contract, or

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for the erection or construction of any works to be used in connection therewith.

Section 22. The said Board or any person, association or corporation contracting with it for the reclamation of any such lands shall have the right to appropriate any unappropriated waters of the State necessary to the carrying out of any contracts into by them or either of them in relation to the same, in the same manner as appropriations are required to be made in behalf of individuals.

Board to prescribe duties of employees.

Section 23. The Board shall prescribe the duties of all its employees, shall use a seal and shall collect the following fees:

Fees.

For filing each application, one dollar; for filing each final proof, one dollar: for issuing each patent, one dollar: for making certified copies of records or papers, the same fees as provided to be charged by the Secretary of State for like services. The money collected for fees shall be paid to the State Treasurer on the last day of each month, and by him credited to the Carey Land Act Fund.

Carey Land Filing Fund.

The filing fees, when paid for land reserved but not patented to the State, shall be kept in a separate fund, called Carey Land Filing Fund and can be paid out only for refunds in the event that the land is not reclaimed within the contract period; said refund to be made upon orders from the Board to the State Auditor, specifying the lands filed on and by whom: but after any of these lands are patented the filing fees paid for the same shall be transferred from the said fund to the Carey Land Act Fund upon an order from the Board to the State Auditor specifying the legal subdivisions of land and total acreage.

Person may occupy land temporarily.

Section 24. For the purpose of expediting the settlement of any lands for the reclamation of which the said Board may make contracts, it may on such terms as may by the said Board be prescribed by rule or contract permit any such lands to be improved and occupied and cultivated for limited periods: provided,

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however, that such occupancy shall not preclude any person desiring to settle upon such lands from doing so at any time.

How money applied.

Section 25. All moneys received by the Board from the sale or lease of lands reclaimed under the provisions of this Act shall be deposited, upon the last day of each month, with the State Treasurer, to the credit of the Carey Land Act Fund and such sums as may be necessary shall be used—

(1) For the payment of the current expenses of the Board and of the State Engineer's office hereafter incurred in carrying out the provisions of this Act, said Engineer's expenses to include a charge for actual cost of time devoted to Board matters:

(2) To reimburse the State General Fund for expenses of the Board, Two Thousand Dollars, and of the State Engineer Two Thousand Dollars heretofore incurred and paid out of the General Fund.

(3) To reimburse the State for expense of the State Arid Land Grant Commission, Five Thousand Seven Hundred and Seven Dollars and sixty-five cents ($5,707.65) heretofore paid out of the General Fund: Provided, that the reimbursements thus made shall be paid into the State Engineer's Expense Fund, which is hereby created and shall be used under the direction of the State Board of Land Commissioners and the State Engineer in carrying out the provisions of paragraphs two, three, and four, of Section seven, Chapter CXIV, Acts 1903. Claims against said expense fund to be passed upon and paid in same manner as other claims against State funds.

(4) After paying the current expenses and reimbursements above designated, if there be a balance in said fund, there shall be estimated, by the Board, the sum that in its judgment will suffice for its next two years expenses, and whenever the remainder in said fund, less said estimate, shall equal two thousand dollars, the same shall be applied pro rata to the payment of warrants issued by the State Arid Land Grant Com-

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mission for expenses incurred by it, against Districts Nos. 1, 2, and 4, and open accounts which are credited on the ledger of said Commission to sundry persons for supplies furnished, the aggregate of said warrants and accounts being, without interest, $18,697.45; and any balance remaining shall constitute a Trust Fund in the hands of the State Treasurer, the same to be used only for the reclamation of other arid lands.

Expense apportioned.

Section 26. That the expenses actually incurred in connnection with each district, or project to be reclaimed under this Act may be determined, it shall be the duty of the State Engineer to report to the Board his expenses and the time he spends in connection with each. The office and clerical expenses of the Board shall be by it apportioned at the end of each fiscal year among various districts and projects, and correct charges of these and the Engineer's salary and expenses made against the different districts and projects.

Biennial report.

Section 27. The Board shall issue a biennial report showing the status of various districts and projects, the receipts and expenses, lands reclaimed and patented to the State, if any, and other results of its works. If requested by the Governor a report shall be made at any time.

Appropriation to pay expenses of Board.

Section 28. There is hereby appropriated out of the funds of the State, not otherwise appropriated, the following sums, or as much thereof as may be necessary, from which shall be paid the Secretary, the office and traveling expenses of the Carey Land Act Board viz: One thousand dollars for the fiscal year ending Nov. 30, 1905, and one thousand dollars for the fiscal year ending Nov. 30, 1906; Provided, if funds are received from sale of lands reclaimed under the Carey Act, that besides the two thousand dollars above appropriated, there is hereby appropriated from the Carey Land Act Fund for use at the discretion of the Board in carrying out the provisions of this Act, an additional sum of two thousand dollars.

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Repealing clause.

Section 29. All Acts and parts of Acts in conflict herewith are hereby repealed.

When act takes effect.

Section 30. This Act shall take effect and be in force from and after its passage and approval by the Governor.

Approved March 8th, 1905.

CHAPTER 106.

An Act to provide for the construction and maintenance of drains, and the assessment and collection of taxes therefor.

Be it Enacted by the Legislative Assembly of the State of Montana:

ARTICLE I.

Relating to establishment of drains.

Section 1. That drains may be located, established, constructed and maintained, and drains and water courses may be cleaned out, straightened, widened, deepened and extended, whenever the same shall be conducive to the improvement or reclamation of agricultural lands, public health, convenience or welfare.

What word "drain" includes.

Section 2. The word "drain" whenever used in this Act shall be deemed to include any water course or ditch, opened or proposed to be opened and improved for the purpose of drainage, and any artificial ditch or drain, levee, dyke or barrier, or tile drain proposed or constructed for such purpose.

Drain Commissioner.

Section 3. The Board of County Commissioners of each organized County in this State, which may desire to avail itself of the benefits of this Act, shall, at its regular meeting in March, Nineteen Hundred and Five appoint one drain commissioner, whose term of office shall end on the first day of January, Nineteen Hundred and Seven. Such Board of County Commissioners shall, at their regular meeting in September, Nineteen Hundred and Six, and every second year thereafter appoint one drain commissioner whose term of office shall be two years, and shall begin on the first day of January following his appointment. In case of vacancy in the

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office of the county drain commissioner the same may be filled by appointment by the board of county commissioners at any regular or special meeting and of which election they shall file the certificate with the county clerk, and the person so appointed shall hold his office until his successor is appointed. Every county drain commissioner shall within ten days after his appointment take, subscribe and file with the county clerk the oath of office required by the Constitution of this State and shall also within the same time execute and file with such clerk a bond to the county in the penal sum of ten thousand dollars with two or more sufficient sureties to be approved by the board of county commissioners, conditioned upon the faithful discharge of the duties of his office. It shall be the duty of the county clerk, upon the appointment of any county drain commissioner to make report thereof to the Secretary of State, giving also the date he qualified and entered upon the discharge of his duties.

Authority of Drain Commissioner.

Section 4. The county drain commissioner shall have jurisdiction over all drains within his county including those heretofore established and now in process of construction, except that in all cases where the entire drain shall be laid in one county, and the benefits to be derived therefrom and the assessments for its construction shall extend to lands situated in one or more adjoining counties, then all such drains shall be laid by the commissioners of such counties acting jointly, and all their proceedings shall be had under the provisions of this act regulating the construction of drains traversing more than one county.

Drain Commissioner to establish drain.

Section 5. In case it is proposed to run a part or parts of a drain through any incorporated city or town, all of such drains shall be located established and constructed and the assessment for its construction made by the county drain commissioner in the same manner as herein provided for the construction of other drains: and whenever the word "county" is used in this act it shall be construed to mean city or village, as the case

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may be. Whenever such part or parts of said drain shall be located within any street, highway or public place, of any town or city, then a resolution adopted by a majority vote of the common council of said town or city granting leave to construct such drain therein, and designating the name of the street or pointing out the alley or other public place to be traversed by such drain, shall be sufficient release of the right of way, and shall be deemed a sufficient conveyance under the provisions of this act, and said common council may permit the construction of an open drain if such consent be expressly set forth in such resolution: Provided, That when an appeal is taken from the assessment of such county drain commissioner by the owner of the lands in a city or town such appeal shall be made to the common council of such city or town, subject in every other respect to the provisions of this act covering appeals.

Proviso.

Duty of Drain Commissioner.

Section 6. It shall be the duty of each county drain commissioner to make and keep a full financial statement of each drain laid out by him. The county drain commissioner shall also make and keep in his office, in a book to be provided for that purpose, a complete record of each drain laid out or applied for under his supervision, under the provisions of this act, which record shall include a copy of the application for the laying out of the drain, of the minutes of the survey, or the releases of the right of way where the same has been released, together with the minutes of his doings, of his orders of determination of the necessity for, and of the establishing the drain, and his assessments of benefits. Where special commissioners or a jury have been called it shall also contain a copy of the application to the district court, of the return of the special commissioners of [or] jury as the case may be, and of all other papers in his office necessary to show a complete history of each drain, all of which said original papers shall then be deposited and filed in the office of the county clerk. And no drain tax shall be spread until

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all the records required have been deposited and filed in the office of the county clerk.

Drain Commissioner to administer oaths.

Section 7. Drain commissioners may take acknowledgements of releases of right of way and administer oaths in all proceedings in any way pertaining to drains under this Act. A simple form of release of right of way and damages that shall set forth by reference to the survey of the drain, or by other convenient description, the particular land intended to be conveyed, and signed and acknowledged by the person having the right to convey, shall be deemed a sufficient conveyance under the provisions of this act. All releases for rights of way shall be deemed to include sufficient ground on each side of the center line of such drain for the deposit of the excavations therefrom.

Report.

Section 8. Every county drain commissioner shall make a report to the board of county commissioners on the second day of its quarterly meetings, of all drains constructed, finished or begun under his supervision during the quarter then ending, and he shall also render to them a full financial statement of each drain. The reports required by this section shall include an itemized statement of all expenses and disbursements on account of each and every drain laid or operated by him during the year, and a debt and credit balance of every such drain. Each county drain commissioner shall be liable on his bond for any gross neglect of duty or any misapplication of moneys coming under his control as such drain commissioner.

What to contain.

Persons not eligible.

Section 9. No person holding the office of county commissioner or county clerk shall be eligible to the office of county drain commissioner, and any county drain commissioner accepting the office of county commissioner or county clerk shall thereupon be considered as having vacated the office of county drain commissioner, but it is hereby provided that nothing in this act shall prevent the appointment of the County Surveyor to the office of County Drain Commissioner, nor of his holding both offices at the same time.

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ARTICLE II.

LOCATION OF DRAIN.

Application.

Section 1. Before the commissioner takes any action towards locating or establishing any drain there shall be filed with him an application signed by no less than ten freeholders of the county or counties in which such drain or the lands to be drained thereby and to be assessed therefor may be situated; also that five or more of said signers shall be owners of lands liable to an assessment for benefits in the construction of such drain: Provided, that where there are only three or less property owners liable to assessments for benefits one or more of such owners of lands so liable shall be necessary upon such application, giving a general description of the beginning, the route and the terminus thereof. And in case any county drain commissioner shall directly or indirectly interest himself in securing signatures to an application for any drain he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed fifty dollars or by imprisonment in the county jail not to exceed ninety days or by both such fine and imprisonment in the discretion of the court, and the office of such drain commissioner shall be deemed vacant, and the drain commissioner so convicted shall be incapable of again holding the office of county drain commissioner. Such applicants shall be jointly and severally liable for all costs and expenses in case the county drain commissioner upon examination or upon examination and survey shall determine that the same is unnecessary or impracticable or in case the proceedings shall be dismissed for other cause. If the persons signing such application shall refuse to pay such costs and expenses the county drain commissioner shall bring suit in a court of competent jurisdiction and collect such costs and expenses with costs of suit. If upon the presentation of such application the county drain commissioner shall deem the financial responsibility of the

Proviso.

Misdemeanor.

Penalty.

Applicants liable for costs and expenses.

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applicants insufficient he shall have the right to return such application for additional signatures.

Drain Commissioner to examine route of proposed drain.

Section 2. Upon the filing of such application the county drain commissioner authorized to act thereon shall as soon as practicable thereafter proceed to personally examine the route of the proposed drain and if in his opinion it is necessary and conducive to the improvement or reclamation of agricultural lands, public health, convenience or welfare, that the application should be granted, he shall, as a means of determining the practicability thereof, make a survey and measurement of the line of the proposed drain, or cause the same to be made by a competent surveyor. If upon such survey he shall find such drain to be practicable, he shall within ninety days make his first order of determination in writing in accordance therewith, therein particularly naming such drain by which it shall thereafter be known and shall establish the commencement, route, and terminus of said drain, and the width, length and depth thereof, and shall set survey or grade stakes not more than eight rods apart. For such purpose he shall have the right to enter upon any such lands traversed by the route of the proposed drain, or otherwise connected, with the purpose of the proceeding. In locating such drain the county drain commissioner shall not be limited or confined to the precise starting point, route or terminus set forth in the application. The record or minutes of the survey shall show the line and route of the drain, the points where the line of the drain crosses the boundary lines of each owner's land and the length thereof upon his land, and the width of surface excavation that will be required in its construction and shall also show, by words, or letters and figures, the width of ground that will be required for the deposition of earth, and every release or right of way shall be deemed to include the extreme width thus shown.

Survey.

Owners of lands to pay costs.

Section 3. If at any time after the county drain commissioner has issued his first order of determina-

tion, establishing such drain as provided in the preceding Section, and before the letting of any contract for constructing the same, all the owners of the lands through which, or for the benefit of which such drain is located, shall, by themselves, their agents or attorneys, pay to the county drain commissioner all the costs and expenses thus far incurred by him, and shall severally or jointly enter into a contract, with good and sufficient sureties and in such sum as the county drain commissioner may require, to construct so much of such drain, and on such route, and of such dimensions as the said commissioner may, in such contract determine, and to pay all expenses necessary to be incurred in the construction of same, then the county drain commissioner may so contract with such owner or owners, and such drain, when so finished and accepted shall be certified by the county drain commissioner as a drain lawfully constructed in pursuance of the provisions of this act, and shall be recorded in the same manner as other drains. If any such contracts are not fulfilled by the time limited therein, the county drain commissioner shall contract with other parties for the completion of the work, and the parties so in default, and their sureties, shall be liable for all costs and expenses attending such default.

Special Commissioners.

Section 4. If within twenty days after the making of such first order of determination, all the persons through whose lands the proposed drain is to pass shall not have executed a release of the right of way, and all damages on account thereof, the county drain commissioner shall, as soon as practicable, make application to the district court of the county in which such lands are situated, for the appointment of three disinterested special commissioners, who shall be resident freeholders of the county, but not of the district or districts traversed by such drain, to determine the necessity therefor, and for the taking of private property for the use and benefit of the public, for the purpose thereof,

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and the just compensation to be made therefor. Such application shall be in writing and shall set forth:

Application—what to set forth.

First, The fact that an application for a drain was made, and when, filing with said court a certified copy of such application, also giving the route, survey and specifications of said drain as set forth in the first order of determination:

Application—what to set forth.

Second, That an order determining the necessity for such drain was made by the county drain commissioner, giving the time when such order was made, in accordance with such route, survey and specifications as above set forth:

Application—what to set forth.

Third. (1) The several descriptions of tracts of land with the names of the owner or owners of every such tract who have refused or neglected to execute a release of right of way and damages in any way arising or incident to the opening or maintaining the said proposed drain: (2) The several descriptions or tracts of land owned by any minor, incompetent person, unknown persons or non-residents of the county or counties, the execution of a release of right of way and damages or which have been neglected or refused: (3) It shall not be necessary to set forth in said application to the district court the names of the several owners nor the descriptions of the several tracts or parcels of lands liable to an assessment for benefits, in case the drain applied for should be located and established, except those who have not released the right of way and through whose land the drain passes; nor shall the same be included in the citation issued from the district court.

Application to be made to Court.

Section 5. The court to whom such application is made shall make an examination at the time of such application of all the proceedings of the county drain commissioner so far as had, and if such proceedings be found to be in accordance with the statute, such court shall at once appoint a time and place of hearing upon the application, which time shall be fixed not less than fifteen nor more than forty days thereafter and

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the court shall issue a citation to all persons whose lands are traversed by such drain, who have not released the right of way, and all damages on account thereof, to appear at the time and place designated in said citation, and be heard with respect to such application, if they so desire, and show cause, if any there be, why said application should not be granted, and any error or errors that may have been made in any of the proceedings thus far had shall be raised and taken advantage of at such time and before such court, and if not so raised and taken advantage of at such time and before such court shall be deemed to have been waived by all persons cited to appear under this notice. If any person on whom such service is to be made is a minor, under the age of fou rteen years, or an incompetent person and resides in this State, such service shall be made as herein provided on his guardian, or if none, then on the person who may for such purpose be appointed special guardian and also on the person who has the care of, or with whom such minor or incompetent person resides. In case any person whose lands are traversed by said drain is a minor or an incompetent person, and has no guardian, the said court or the judge of said court shall appoint a special guardian, to appear for and attend to the interests of such minor or incompetent person and all notices to be served in the progress of the proceedings shall be served on such special guardian.

Service on minor.

Section 6. The citation shall recite so much of the premises as will show jurisdiction, giving a description of the land traversed by such drain, and in the case of resident owners who reside upon the premises traversed by said drain shall be addressed to such owners by name; in the case of non-resident owner or owners not residing upon the lands traversed, it shall be addressed to the non-resident owner or owners but it shall not be necessary to name such owner or owners. It shall describe the drain by its commencement, terminus and general course, and shall set forth that land owned by

What citation to recite.

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the persons to whom it is addressed will be crossed by such drain and may be subject to assessment for its construction, and that a description and survey of such drain is on file with the court issuing such citation, and describe the land to be taken. Such citation shall be personally served by the county drain commissioner or some other competent person, upon every person whose lands are traversed by the said drain, who has not released the right of way and all damages on account thereof, and who resides on any land to be traversed by said drain by delivering to him or her a copy thereof or by leaving the same at his or her residence with some person of suitable age and discretion, who shall be informed of its contents. In all cases of personal service at least ten days shall intervene between the day of service and the day of hearing, and the court issuing such citation shall require proof of such service by affidavit showing the time, place and manner of such service. Citations shall be served upon cities and incorporated towns by leaving a copy thereof with the mayor and street commissioner, if there be one; upon the State by leaving or mailing a copy thereof to the State Land Commissioner and the prosecuting attorney of the county in which such lands are situated; upon railroad companies by leaving a copy thereof with the agent of any ticket or freight office of the company operating such railroads, and upon other corporations by serving the same upon the officer or person designated by law in cases of serving civil process. If any lands involved are owned by non-residents of the county or counties, or by residents who do not reside upon the premises traversed by said drain, a copy of the citation so far as it affects such lands shall be published in some newspaper published and circulated in the county in which such lands are located for at least two weeks previous to the day of hearing, which publication shall be deemed to be sufficient notice to all such parties, and it shall not be necessary to name such owner or owners in said publication. The first publication of such notice

Citation to cities.

Citation to non-residents.

shall be at lease [least] fourteen full days before the day of hearing, and proof of its publication shall be made as above provided in the case of personal service.

Hearing.

Section 7. The court to whom such application is made shall at the time and place fixed in the citation, or at any time to which it may adjourn, and upon proof of service and publication when required, proceed to hear all persons whose lands are traversed by said proposed drain, and all such persons may show cause against the prayer set forth in the application, and may disprove any of the facts alleged therein, except the necessity of the drain, and may raise any and all objections to any errors or irregularities made in the proceedings had thus far, if any, and the said court shall hear the proofs and allegations of the parties, and the objections so made to the proceedings, if any there be, and if no sufficient cause is shown against granting the prayer set forth in said application, the said court shall make an order appointing three disinterested and competent resident freeholders of said county not residents of the district traversed or benefitted by the drain, as special commissioners to ascertain and determine the damages or compensation to be allowed to the owners or parties interested in the real estate proposed to be taken for the right of way for such drain. Such court shall immediately upon the appointment of such commissioners, and with the concurrence of the county drain commissioner, appoint a time and place, such time to be not less than five nor more than fifteen days thereafter, at which time such special commissioners shall met [meet] the county drain commissioner and other parties, who have not released the right of way, to consider the matters and things with respect to which they have been appointed, and the said court shall make public announcement thereof, and thereupon the proceedings shall be deemed a continuing proceeding, and no further notice of the time and place of hearing shall be required, and such appointment and announcement shall be made a part of the record in

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the case: Provided, That if it shall appear at such hearing that all parties have not been duly notified, the court may adjourn such hearing for a period sufficiently long to enable the county drain commissioner to duly notify such parties in the manner heretofore provided and it shall not be necessary to again notify the parties who have received legal notice in the first instance. The district court shall, if necessary, allow the county drain commissioner to amend his application at any time before the appointment of special commissioners and in case there is shown to be error in the proceedings of the county drain commissioner the district court shall adjourn the hearing for sufficient time to allow the said commissioner to correct such error or errors: Provided, The application to establish the drain is shown to be sufficient under the statute: Provided, further, That any person whose premises are traversed by the proposed drain may in writing demand and have from such court at the time of hearing of said application a jury of twelve freeholders of said county, not residents of the districts traversed by or benefiitted by such drain, to ascertain and determine the necessity for taking or using such lands, and to appraise and determine the damages and compensation to be allowed therefor. The demand of any one of the parties who have not released the right of way, for a jury, shall be deemed to be a demand for all, and if no jury be demandor [demanded] on the part of any person who has not released the right of way before the appointment of special commissioners shall be made by such court, his or her right to the same shall be deemed to have been waived. Whenever such demand for such jury shall have been made, the court shall proceed in the same manner as is provided by law in case commissioners are appointed in condemnation suits, and all further proceedings had in the matter by such court and jury shall be in conformity with the provisions of law, as aforesaid, so far as the same shall apply: Provided, That when such jury shall have made their re-

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Jury.

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port, and the same shall have been confirmed by such court, a certified copy of such order of confirmation shall be furnished by the court to the county drain commissioner.

Proceedings in case no jury is demanded.

Section 8. If no demand for a jury shall be made, and the court shall have granted the prayer set forth in the application, such court shall proceed to deliver to the county drain commissioner, a copy of the order appointing the special commissioners, and the county drain commissioner shall notify such special commissioners of their appointment and the time and place they are required to meet with him and the other parties, who have not released the right of way for said proposed drain. In case such special commissioners neglect or refuse to meet at such time and place with said county drain commissioner, the said county drain commissioner shall adjourn such day of meeting for a period not to exceed thirty days, and he shall give public notice by proclamation of the date, time and place of such adjourned meeting, and he shall, as soon as practicable, make application to the judge of the district court who shall appoint other special commissioners without further notice or citations. They shall be sworn to faithfully discharge the duties of special commissioners in the matter in which they are called to act, and to well and truly determine the necessity for such drain, and the taking of private property for the use and benefit of the public for the purpose thereof and the just compensation to be paid therefor. The said special commissioners, with the county drain commissioner and the other parties in interest who may be present, who have not released the right of way for said proposed drain, shall meet at the time and place ordered by said court and proceed at that time, or at any time to which they may adjourn, to view such premises, and for such purpose they shall have the right to enter upon any lands traversed by the route of the proposed drain.

Oath of Special Commissioner.

Section 9. The said jury or special commissioners

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Jury or Special Commissioners to hear proofs.

shall hear the proofs and allegations of the several parties in interest, and shall ascertain and determine the necessity for such drain, and for the taking of such private property for the use and benefit of the public the purpose thereof, and the just compensation to be made therefor in each case, which compensation shall be determined without reference to any benefits that may accrue to the land in consequence of the construction of such proposed drain. There shall be produced by the county drain commissioner at such hearing, the original application for the laying out of such drain, and the minutes of his action thereon, so far as had, also the first order of determination and the application to the district court, with the citation annexed and a copy of all proceedings in the district court, the original minutes of the survey, signed by the surveyor and the order appointing the jury or special commissioners as the case may be. The jury or special commissioners may adjourn such hearing from day to day, for any cause, not exceeding in all ten days, announcement of which adjournment shall be then and there publicly made.

Jury or Special Commissioners to make return.

Section 10. The said jury or special commissioners shall within fifteen days from the date of their first meeting make a return in writing of their hearing, determination and of their several awards. The special commissioners shall file and return with the county drain commissioner who shall examine the same, and if he shall find such return not to be in substantial conformity with the statute, he shall return the same to the special commissioners for correction, with his objections in writing. The special commissioners shall thereupon proceed to correct their return, and file the same with the county drain commissioner within five days. When the county drain commissioner shall find such return to be without material error, he shall file the same with the other papers in his possession pertaining to such drain. In case of a jury they shall file and return to the judge of the district court who shall examine

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the same, and if he shall find such return not to be in substantial conformity with the statute, he shall return the same to the jury for correction, with his objections in writing. The jury shall thereupon proceed to correct their return, and file the same with the court within five days, and when such report shall have been confirmed by such court, a certified copy of such order of confirmation shall be furnished by the court to the county drain commissioner. Such return by such jury or special commissioners shall be deemed

Proceedings may be dismissed.

Section 11. In case the special commissioners of jury shall decide such drain to be unnecessary they shall so state in their return, and the county drain commissioner shall thereupon dismiss the proceedings at the cost of the applicants, and no further application for the same shall be entertained within one year thereafter.

Parties interested may execute release for right of way.

Section 12. If at any time before the appointment of special commissioners or jury provided for in this act or at any time before the filing of their return and award of damages, all of the parties through whose lands the proposed drain is to pass shall execute a release for right of way, and all damages on account thereof, then all proceedings for the appointment of special commissioners or jury and all actions taken by them after their appointment, shall be discontinued and void, and the county drain commissioner shall proceed as if no application for special commissioners or jury had been made.

Award of damages to be deducted from assessment of benefits.

Section 13. The county drain commissioner shall deduct the award of damages from the assessment of benefits, when made, on the tract which includes the right of way of said drain. In case the award of damages shall exceed the assessment of benefits, the county commissioners shall draw orders on the county treasurer, for the amounts awarded in the return of the special commissioners or jury in excess of assessments for benefits, describing in each order the lands in payment whereof it is drawn, and before such drain shall be constructed such order shall be tendered by the

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county drain commissioner to the party entitled thereto: Provided, That if the owner of any lands upon which damages have been awarded in excess of apportionment of benefits be a non-resident of the district or districts traversed by said drain, or be unknow [unknown], or in case of a minor or otherwise incompetent person, such order shall be deposited with the county clerk, payable to the owner of such description of land upon which such damages were awarded. Such order shall be held by such clerk and be delivered by him to the owner of such lands when called for or otherwise legally demanded, and the same shall thereby be deemed to have been lawfuly tendered to the owner of such lands. It shall be the duty of such county treasurer at any time upon presentation to him of any such drain order drawn for the payment of such right of way or damages to pay the same out of any moneys in his hands belonging to the general fund of such county and refund such amount out of the first moneys collected by him on account of such drain.

Tender.

Section 14. If the owner of any lands upon which such damages have been awarded in excess of apportionment for benefits shall, upon the tender of such order to him, refuse to accept the same, the county drain commissioner shall make such tender in lawful money, and for that purpose he shall be authorized to endorse such order and present the same to the county treasurer for payment, and it shall be the duty of such treasurer to pay such order as hereinbefore provided. If, however, there shall be no money in the general fund of such county treasury, the county drain commissioner shall be authorized to have such order discounted, wherever he may be enabled to do so: Provided, Such discount shall not be more than at the rate of eight per cent per annum, and he shall charge the amount of such discount to the expense and cost of such drain, and the county commissioners shall draw an order therefor. The county drain commissioner shall thereupon make to such owner a tender in lawful money

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of the amount awarded to him in excess of the apportionment of benefits, and if he shall refuse to accept such money, the county drain commissioner shall deposit the same with the county treasurer, taking duplicate receipts therefor, one of which he may retain, and the other he shall file with the county clerk. Such money shall be held by such treasurer and be delivered by him to such owner when called for or otherwise legally demanded.

Drain along railroad.

Section 15. Drains may be laid along the line of any railroad within its right of way: Provided, Such drain shall not be to the injury of the roadbed. Whenever it is proposed to construct a drain along the line, and within the right of way of any railroad, and the company owning or operating such road shall refuse or neglect to permit such drain to be constructed or release the right of way therefor within the time prescribed in this act such release shall be obtained in the same manner as is provided in this act for obtaining private lands: Provided, That no drain shall be constructed along the line of any railroad without the consent of the company owning or operating such road, if it shall appear to the special commissioners or jury that such drain can equally well be laid on private lands.

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Duty of railroad.

Section 16. Whenever it is necessary to run a drain across the right of way or road bed of any railraod, the same proceedings shall be had throughout in all respects as in cases provided in this act for obtaining private lands for the construction of drains, except as hereinafter provided. It shall be the duty of the railroad company when notified by the county drain commissioner so to do, to make and maintain the necessary opening through said road bed, and to build and maintain a suitable culvert. Notice in writing to make such opening, and to construct such culvert, shall be served upon such company by leaving a copy thereof with the ticket or freight agent or general officer of such railroad company, at least thirty days before such railroad company shall become liable.

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Penalty.

Section 17. In case such railroad company shall refuse or neglect to comply with the provisions of the preceding section, it shall be liable to a penalty of ten dollars for each day's refusal or neglect to make such opening and construct such culvert. The county attorney of the county in which such railroad company shall have refused or neglected to comply with the provisions of the preceding section shall, upon complaint being made by the county drain commissioner, bring suit to collect such penalty or fines, and it shall be his duty to prosecute the same to a final determination in any court having competent jurisdiction.

Drain along public highway.

Proviso.

Section 18. Drains may be laid along and within the limits of or across any public highway: Provided, That when it is proposed to construct a drain in whole or in part along a public highway, the owners of the land abutting on the side of the highway along which such drain is proposed to be laid, shall be considered as still owing the fee of such land, and it shall be necessary for the county drain commissioner to obtain from them severally a release of their rights to so much of said highway as is necessary and proposed to be taken for the right of way of said drain, and for all damages on account thereof. In case such release is not executed within the time prescribed in this act, such release shall be obtained in the same manner as is provided in this act for obtaining private lands.

Cost of bridge or culvert to be charged as part of cost of construction of drain.

Section 19. When any drain crosses, a highway, the cost of constructing the necessary bridge or culvert shall be charged in the first instance as part of the cost of construction of such drain, after which such bridge or culvert shall be maintained as part of the highway. When a drain passes along a highway, there shall be constructed at least one bridge or passageway across such drain connecting the highway with each enclosed field and with each farm house entrance, which bridge or passageway shall be charged in the first instance as a part of the construction of such drain, after which

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such bridge or passageway shall be maintained by the owner of the land.

Blind drains.

Section 20. The county drain commissioner may order the construction of blind drains by the use of drain tiles or sewer pipe, when the nature of the ground will admit thereof. When any such blind drain is to be constructed across any land, so that the surface of the land can be restored, the special commissioners in making their award of damages shall take that fact in account. Any person through whose land an open drain has been constructed, may make a written request to the county drain commissioner to be permitted to tile and cover with the earth the whole, or any part thereof, that may traverse his land, and the county drain commissioner may grant such request, but in doing so he shall prescribe the size of the title to be used. When blind drains are constructed the entrance thereto shall be substantially protected from drift wood and debris.

Drain not to impair navigation.

Section 21. Drains may be laid or extended into or along or from any lake or other body of water surrounded wholly or in part by a swamp, marsh or other low lands for the general purpose of drainage contemplated by this act but not so as to impair the navigation of any navigable water.

ARTICLE III.

CONSTRUCTION OF DRAINS.

Order establishing drain.

Section 1. Upon the release of right of way and damages or upon the determination and return of the special commissioners, or order of the district court, as the case may be, the county drain commissioner shall make his final order of determination establishing the drain, a certified copy of which order or determination shall be filed with the county clerk within five days after such order is made. He shall include in such order a description of the several tracts or parcels of land to be assessed for benefits in the construction of such drain, which said tracts or parcels shall constitute the

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special assessment district for that purpose, to be known and designated in such order by the same name as the drain. He shall thereupon, without delay, proceed to divide the route thereof into convenient sections for the letting of the work, and shall mark the depth of cutting on each grade stake, from stake to stake, along the whole length of such drain. He shall also mark on each section stake the number of each section of division from the lower end of said drain, and the length in feet or rods which each section contains and shall make a diagram corresponding with the divisions so made, and shall file the same with the other papers in his office pertaining to said drain. He shall give not less than ten days notice of the time and place of letting contracts by serving personal notice on every person whose lands are affected by such assessment and who resides in the district traversed or benefitted by said drain, which notice shall be served in the same manner as provided in this act for the personal service of citations, and by posting said notice, in five public places in the district traversed or benefitted by said drain, and by causing a notice thereof to be published, not less than two insertions, in one or more weekly newspapers published and of general circulation in the county. Such notice shall contain a description of the several tracts or parcels of lands constituting the special assessment district of such drain, as above provided, and it shall also state that at the time and place of such letting or at such other time and place thereafter to which the county drain commissioner may adjourn the same, the assessments for benefits and the lands comprised within the special assessment district shall be subject to review for at least one day; such review shall be held open from nine o'clock in the forenoon until five o'clock in the afternoon. At such review the county drain commissioner shall héar the proffs [proofs] and allegrations [allegations] of all parties in interest, and shall carefully reconsider and review the descriptions of land comprised within the special assess-

Notice of letting contracts for construction.

Contents of notice.

ment district the several descriptions assessed and his assessments of benefits, and define and equalize the same as may seem just and equitable.

Commissioner to determine how taxes collected.

Section 2. At the time and place of letting contracts and before receiving any bids, the county drain commissioner shall have the right, and it shall be his duty to determine whether the whole of the per cent of taxes to be spread for benefits to lands in the construction of such drain shall be assessed and collected in that same year, or whether the same shall be divided into two or more equal installments, one installment to be collected in that same year, and the other installment or installments within five years next following. Such determination, however, shall be made then and there, and shall be publicly announced for the information of bidders; and the county drain commissioner shall also then and there announce for the information of bidders the per cent of tax to be assessed against any district at large and whether in his opinion it will be necessary to divide the amount thereof into installments as hereinafter directed.

Drain Commissioner to let contracts for construction.

Section 3. The county drain commissioner shall thereupon proceed to receive bids and let contracts for the construction of the sections, and make contracts with the lowest responsible bidder giving adequate security for the performance of the work. Such security shall cover the completion of the job in the manner and within the time fixed in the contract, and shall be in a sum to be fixed and determined by the county drain commissioner. He shall first let the section at the outlet of the drain, and shall let each remaining section in its order up stream. The county drain commissioner shall reserve the right to reject any and all bids, and

Bids may be rejected.

may adjourn such letting in the whole or in part, from time to time to such other time or place, to be by him at the time of such adjournment publicly announced, as shall to him seem proper, but not in all more than forty days from and after the time of letting first advertised. The parties who are assessed a tax for benefits in the

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construction of such drain, and who may be bidders for the contracts thereon, shall, if equal bidders with other parties, be preferred in awarding such contracts. And it shall be the duty of the said drain commissioner after completion of said drain, to examine the same. If the county drain commissioner is satisfied with the manner in which said work is done he shall certify in writing that the drain is completed in accordance with the original grade and specifications, which certificate shall be filed with the county clerk and become a part of the records of said drain. It shall not be lawful for the county commissioners to issue orders on the fund of any drain exceeding two-thirds of the amount earned on any contract, until after acceptance of said work by the county drain commissioner, and the said certificate of the drain commissioner is filed. In case of any open drain the dirt excavated therefrom shall be placed as near as may be equal on each side and not less than three feet from the edges of said drain and shall not be left in piles more than four feet high except where the drain runs along a highway: Provided, that the owner of said lands may by written consent allow the dirt taken from said drain to be otherwise disposed of.

Disposal of dirt from excavation.

Proviso.

Section 4. The commissioner shall have the power to grant a reasonable extension of time for the completion of any contract. When any contract shall not be finished within the time specified, or to which it may be extended, the county drain commissioner shall declare such contract forfeited, and shall within a reasonable time hereafter, relet the unfinished portion thereof to the lowest responsible bidder, by public letting after not less than five days, notice thereof, by posting only, as provided for the letting in the first instance, or by private letting when such can be done at a price per rod for the uncompleted portion thereof not exceeding the price per rod at which the job was first let; and he shall make contract and take security in each case as hereinbefore provided. The cost of completing such part over and above the contract price, if any, and the ex-

Extension of time for completion of work may be granted.

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pense of notice and reletting shall be collected by the county drain commissioner of the parties first contracting or of their bondsman, which moneys, when so collected, shall be deposited with the county treasurer, and placed to the credit of such drain: Provided, That in no case shall the county drain commissioner declare any such contract forfeited without first giving five days' notice thereof to the contractor, if he can be found, and if not found then by a written notice left at his last place of residence, with some person of suitable age and discretion, who shall be informed of its contents, if such contractor have a known residence within the county.

ARTICLE IV.

ASSESSMENT AND REVIEW.

Drain Commissioner to apportion expense.

Section 1. The county drain commissioner shall apportion the per cent of the cost of construction of any drain which any township traversed or benefitted thereby shall be liable to pay by reason of the benefit to agricultural land and the public health, convenience or welfare, or as the means of improving any highway, and he shall also apportion the per cent of benefits to accrue to any piece or parcel of land by reason of the construction of such drain, over and above the per cent assessed against such district as aforesaid, which per cent of benefits shall be apportioned upon and assessed against the lands benefitted according to such assessment of benefits and which apportionments he shall announce at the time and place of letting, as provided in chapter four. Such assessment of per cent for benefits shall thereupon be subject to review and correction, and may be appealed from in the manner hereinafter provided.

Owner of land may appeal from decision of Drain Commissioner to District Court.

Section 2. The owner of any land assessed a per cent for any benefit for the construction of any drain, who may conceive himself aggrieved by the assessment made by the county drain commissioner, may, within ten days after the day of review provided for in the preceding section, appeal therefrom and for such purpose

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make an application to the district court of the proper county for the appointment of a board of review as hereinafter provided, by serving upon the drain commissioner and by filing with said district court a notice to that effect, and by filing also a bond with such court in the sum of two hundred dollars with one or more sureties to be approved by the judge of said district court, conditioned upon the payment of all costs in case the assessment made by the county drain commissioner shall be sustained. Any county or counties assessed a per cent for benefits for the construction of any drain that may conceive itself or themselves aggrieved by the assessment made by the county drain commissioner, may, within ten days after the date of review provided for in the preceding section, appeal therefrom as herein provided. Only one application for a board of review shall be entertained by such district court for any one drain.

District Court to appoint Board of Review.

Section 3. The district court upon receipt of any such application, as hereinbefore provided for, shall forthwith notify the county drain commissioner in writing of such appeal and shall thereupon make an order appointing three disinterested and competent freeholders of such county, not residents of the district or districts affected by said drain, as members of a board of review. The persons so appointed, shall constitute the board of review. The court shall thereupon, with the concurrence of the county drain commissioner, immediately fix a time and place when and where said board of review shall meet to review said assessments, which time shall not be less than ten nor more than fifteen days from the date of such appointment. The county drain commissioner shall thereupon give notice to the persons so appointed of their appointment, and of the time and place of meeting, and shall give notice of such meeting by posting notices in at least five public places in each district affected by such assessment, and shall serve a like notice upon the appellant if he be a resident of any district affected and upon the county

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attorney of the county in all cases where the State or county is an interested party. Such service shall be made not less than five days before the day of hearing and may be made either by personal service or by causing a copy thereof to be left at their several places of residence. Proof of service of notice of such meeting shall be made by the person serving said notice and shall be filed in the office of the clerk of the district court. At such hearing the board of review shall have the right and it shall be its duty to review all assessments made by the county drain commissioner on such drain. The persons so appointed shall be sworn by the county drain commissioner to faithfully discharge the duties of such board of review: Provided, That the proceedings in establishing any drain shall be subject to review upon certiorari, as herein provided. Notice of such certiorari shall be served upon the county drain commissioner within ten days after the copy of the final order of determination of such commissioner in establishing any drain has been filed with the county clerk as provided herein in the same manner as notice is required to be given of certiorari for reviewing judgments rendered by justices of the peace, and the write [writ] shall be issued and served, and bond given and approved and the subject matter brought to issue in the same time and manner, as near as may be, as in such cases provided, except that such certiorari may be heard by the court during term, or at chambers, upon five days' notice given to the opposite party; and the district court of the county shall hear and determine the same without unnecessary delay, and if any material defect be found in the proceedings for establishing the drain such proceedings shall be set aside. If the proceedings be sustained, the party bringing the certiorari shall be liable for the costs thereof, and if they be not sustained, the parties making application for the drain shall be liable for the costs. If no certiorari be brought within the time herein prescribed, the drain shall be deemed to have been legally established, and its legality

Certiorari.

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shall not thereafter be questioned in any suit at law or equity: Provided, No court shall allow any certiorari questioning the legality of any drain by any person unless notice has been given to the county drain commissioner in accordance with the provisions of this section: Provided further, That when such proceedings are brought, the county drain commissioner shall postpone the letting of contracts and all other proceedings until after the determination of the court. And if any error be found in the proceedings, the court shall direct the county drain commissioner to correct such error or errors and then proceed the same as though no error had been made.

Hearing of appeal.

Section 4. The board of review shall proceed at the time and place specified in the notice to hear the proofs and allegations of all the parties in respect to the matter of appeal and shall thereupon proceed to view the lands benefitted by such drain and review all the assessments made by the county drain commissioner on such drain, and if in its judgment there be manifest error or inequality in such assessments, it shall order and make such changes therein as it may deem just and equitable. Should the board of review find upon personal examination that there are lands liable to be assessed for the construction of said drain that are not included in the assessing district made by the drain commissioner, it shall add such lands to the assessing district of said drain and shall adjourn such review to such other time or place to be by it at the time of such adjournment, publicly announced, as shall to it seem proper, but not in all more than twenty days from and after the time of review first advertised and shall serve a notice on all such owners of lands living in the district; such notice shall give the time and place of said review, also the description of lands added to said district and shall be served at least ten days before the adjourned day of review. Should such owners of land liable to an assessment be non-residents of said district there shall be a personal notice served on said owners

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as required above, or a notice shall be published in some weekly newspaper published in said county in at least two issues thereof giving the description or descriptions of lands added to said assessment district; also giving the time and place where said board of review shall meet. The action and decision of said board shall be final. The action and decision shall be reduced to writing and signed by a majority of the board making the same, and shall be delivered to the county drain commissioner together with all other papers relating thereto.

Action of Board final.

Section 5. In case the assessment of the county drain commissioner shall be sustained by such board of review, the appellant shall pay the whole costs and expenses of such appeal. Such cost and expenses shall be ascertained and determined by the judge of the district court, and if not paid the appellant shall be liable on his bond for the full amount of such costs in an action at law, to be brought by the county drain commissioner, on the bond, before any court having competent jurisdiction.

Costs of Board of Review—how paid.

Section 6. All assessments of benefits under the provisions of this act shall be upon the principle of benefits derived. All descriptions of land under the provisions of this act shall be made by giving the legal subdivisions thereof, whenever practicable, and when the tract of land which is to be benefitted or affected by such drain is less than such legal subdivision it may be described by designation of the lot or other boundaries, or in some way by which it may be known.

Basis of assessments.

Section 7. School and State lands shall be assessed their per cent apportioned for benefits, and the collection thereof shall be enforced as State and county taxes against lands are collected and enforced. School and State lands shall be included in all assessments for benefits the same as other lands, but the sum of all such drain taxes that may be assessed against any tract of school or state lands shall not aggregate a sum greater than fifty per cent of the price at which said lands are

School and State lands.

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held by the State. Any amount apportioned and assessed upon school or state lands shall be reported by the county commissioners to the Registrar of the State Land Office within ten days after the delivery of the assessment roll to the county treasurer. Said registrar of the State Land office shall enter on the books of his office, against each description of such State lands, the amount of drain taxes assessed thereon, and shall certify the same to the Auditor who shall draw his warrant on the State Treasurer therefor, to be paid out of any funds in his hands not otherwise appropriated. Such amount shall be forwarded by the Registrar of the State Land Office to the County Commissioners on or before the fifteenth day of January next, and shall by him be applied in payment of such taxes. No deed shall issue for such lands until all such drain taxes are paid with interest at seven per cent.

Further assessment.

Section 8. Whenever the amount assessed for the construction of any drain shall not be sufficient to complete the same, and to pay all the costs and incidental expenses, a further assessment shall be made to meet the deficit or additional expense. Such further assessment shall be apportioned, assessed, levied and collected as provided in the first instance, and on the same percentage, and shall be collected in one year, but there shall be no review of, nor appeal from such further assessment.

Proceedings in case Board refuses to act.

Section 9. Should any or all the persons so appointed as a board of review neglect or refuse to serve or be unable to act, the county drain commissioner shall adjourn the hearing the hearing for a sufficient length of time not exceeding in all ten days, to enable him to apply to the district court for the appointment of other persons to act on such board of review and shall make public announcement of the time and place of such adjournment. The review shall thereupon be deemed a continuous proceeding and no further notice shall be required. The district court shall, upon the showing being made, either that any or all the per-

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sons appointed as aforesaid have neglected, refused or were unable to act as the case may be and of the adjourned day of meeting, at once, by order appoint such other person or persons of like qualifications as before to fill such vacancy. And the county drain commissioner shall notify the person or persons so appointed to fill such vacancy of his appointment and of the adjourned day of meeting. The person so appointed shall have the same power and perform the same duties as are herein provided for the board of review in the first instance. The persons acting as such board of review shall receive the sum of Three ($3.00) Dollars per day for each day actually and necessarily spent in the discharge of their duties as members of such board of review. In case the assessment made by the county drain commissioner is sustained the district or districts appealing shall be severally liable for all costs incurred by such appeal, and the same proceedings shall be had throughout in all respect in said appeal to said district court, as to the benefits and liabilities in case of an appeal to the district court from an individual assessment: Provided, That in case two or more districts appeal from the same assessment, only one board of review shall be appointed to review the assessment against the several districts: Provided further, That the board of review herein provided for may adjourn any hearing before it from time to time, as justice may require, not exceeding in all twenty days from the date of their first meeting.

ARTICLE V.

LEVY AND COLLECTION OF DRAIN TAXES.

How drain taxes levied and collected.

Section 1. Within ten days after the letting of contracts, and in case of an appeal, then forthwith after such appeal shall have been decided, the county drain commissioner shall make a computation of the entire cost of such drain, which shall include all the expenses of locating, establishing and constructing the same, including the commissioner's fees, cost of survey, fees and

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expenses of special commissioners or jury, and the amount of contracts for construction; also the cost of appeal in case the assessment of benefits made by the county drain commissioner shall not be sustained, and all other expenses, and he shall add the whole into a gross sum and add thereto ten per centum of said gross sum to cover contingent expenses, and the entire sum so ascertained shall be deemed to be the cost of construction of such drain. In case the drain and the assessment therefor shall affect more than one district or one or more districts and an incorporated city, the county drain commissioners shall apportion such sum between the several districts, city, town or county so affected upon the basis and per cent determined upon by him, or in case of an appeal, as provided herein.

Assessment roll.

Section 2. The county drain commissioner shall thereupon make a special assessment roll for such drain for each district or districts and city, affected thereby, which roll shall be designated "(giving the name) drain special assessment roll," and he shall enter therein a correct description of the tracts, parcels or subdivisions of land benefitted by such drain, as provided herein and place opposite each description the amount of the per cent heretofore determined upon by him or by the board of review, as the case may be. He shall also enter thereon the amount of the per cent apportioned to such district or districts and any city or town, and in case such amount be payable in installments as provided in this act, he shall also enter thereon a memorandum of the installments thereof and of the year or years when such installments shall be spread; and shall add a certificate in writing of his determination made at the time and place of lettin [letting] whether the taxes assessed for benefits shall be paid in one or more years. Such rolls shall be dated and signed by said drain commissioner and filed on or before the first day of August in each year, in the office of the clerk of the county or of any city or town in which such lands may be located.

Duty of County Clerk.

Section 3. The county clerk shall, on or before the

first day of September of each year, make and deliver to the county commissioners of his county a certified statement of the several amounts of drain taxes to be assessed upon such counties at large, for the ensuing year, and shall specify therein the several amounts to be raised for each particular drain, and also a certified statement of all the descriptions of land assessed for benefits for each drain, and the amount to be assessed upon each description for such years as determined by the county drain commissioner in his special assessment rolls. In case any portion of said drain is within the limits of any city the clerk thereof shall make and deliver to the city council of such city a certified statement of the several amounts of drain taxes to be assessed upon such city at large for the ensuing year, and shall make and deliver a similar statement of all the descriptions of land in said city assessed for benefits for each drain lying therein and the amount or amounts so assessed by the county drain commissioner in his special assessment rolls.

Duty of County Clerk.

Section 4. It shall be the duty of the county clerk to spread on the assessment roll the total amount of all the drain taxes determined upon by the county drain commissioner to be assessed upon the county or city at large by adding to the county or city tax for the year in which the same was assessed and extending said tax in the same column with the general county or city tax. He shall also spread upon said roll, separately and immediately following the other descriptions, all tracts or parcels of land specified by the county drain commissioner to be assessed for benefits, and shall place opposite each description in a column marked "drain taxes," the amount of taxes apportioned thereon, as certified to him by the drain commissioner.

Duty of County Clerk.

Section 5. The county clerk shall, at the time of the delivery of his assessment roll to the county treasurer, also furnish him with an itemized statement of the several amounts assessed upon the district or districts at

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large for each particular drain, naming the drain. He shall also, at the same time indorse upon every drain special assessment roll on file in the county clerk's office the amount of tax for benefits thereof spread by him on the tax roll of each district for that year on each description.

Collection of taxes.

Section 6. All drain taxes assessed under the provisions of this act shall be subject to the same interest and charges, and shall be collected in the same manner as State and other general taxes are collected, and collecting officers are hereby vested with the same power and authority in the collection of such taxes as are or may be conferred by law for collecting general taxes. In all cases where suit is brought against the county treasurer arising out of the collection of any drain tax, the county shall defend such officer in the same manner that he has now the right to be defended in the collection of general taxes. No suit shall be instituted to recover any drain tax or money paid or property sold therefor, or for damages on account thereof, unless brought within thirty days from the time of payment of such money to or sale of such property by, the collecting officer; and if such tax shall be paid under protest the reasons therefor shall be specified, and the same procedure observed as is or may be required by the general tax law. All taxes levied under the provisions of this act, with all lawful costs, interest and charges, shall be and remain a perpetual lien upon the lands upon which they are assessed, and a personal claim against the owner or owners of such lands until they are paid.

Assessment becomes lien upon the land.

Section 7. If the taxes levied for the construction, cleaning out, widening, deepening or extending of any drain are not collected by the county treasurer, they shall by him be returned, together with the lands upon which they were levied, to the county commissioners in the same return, at the same time, and in the same manner, in every respect as lands are returned for State, county and city taxes, and such taxes shall fol-

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low such lands, the same as all such other taxes, and all the general provisions of law now existing or that may be hereafter enacted for enforcing the payment of city, county and state taxes, shall apply to such drain taxes, and to the lands returned delinquent therefor, in the same manner and with like effect.

Orders to be drawn upon drain fund.

Section 8. All orders for the payment for services rendered and work performed shall be drawn by the county commissioners upon the drain fund of each particular drain. All orders for the payment for lands for right of way shall be paid on presentation out of the county treasury and for all other services rendered and expenses incurred, except contracts for construction, shall be paid out of the first year's taxes, and the balance of such first year's taxes, if any, shall be applied pro rata among the several contractors in the payment of the contracts for the construction of such drain. For the balance due upon such contracts the county commissioners shall draw orders payable out of the one or other succeeding year's assessment: Provided, That no orders shall be drawn payable in any one year for a larger amount than said year's assessment. All drain orders shall be drawn payable on the fifteenth day of December of the year in which the drain taxes for the payment thereof are required to be paid. All orders not paid when due, by reason of delinquency in the payment of such drain taxes, shall draw interest from the date of presentment at the rate of six per cent per annum said interest to be computed by the county treasurer and to be paid with the principal out of the proper fund on which it was drawn, and out of no other fund, and such treasurer shall report to the county commissioners the amount paid as interest on such orders.

When payable

Disbursed by County Treasurer.

Section 9. Drain taxes, when collected, shall be returned to the county treasurer to be disbursed by him. The drain orders issued for each particular drain shall be received for drain taxes for benefits levied for the construction of such drain, by the county treasurer.

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No injunction to issue.

Section 10. After any taxes have been assessed for the construction, location or establishment of any drain, no injunction shall issue to restrain the collection thereof, nor shall the same be in any manner stayed, unless the amount of such assessment shall first be paid into the county treasurer to be applied upon such tax, in case the court in which the suit upon which such injunction is tried shall so order.

Not void by reason of irregularity.

Section 11. The collection of no tax levied or ordered to be levied for the payment of the location or construction of any drain laid out under this act shall be perpetually enjoined or declared absolutely void in consequence of any error or informality of any officer in the location and establishment thereof, nor by reason of any error or informality appearing in the record of the proceedings by which any drain shall have been located and established, nor on account of any irregularity or informality in the condemnation of right of way nor for want of any record thereof: but the court in which any action may be brought to recover any tax or assessment paid or to declare void the proceedings to locate and establish any drain, or to enjoin any tax or assessment levied or ordered to be levied for the payment of the labor and expense thereof, shall, if there be manifest error in the proceedings, allow the plaintiff in action to show that he has been injured thereby. The court may on application of either party, appoint a competent person or persons, to examine the premises, or to survey the same, or both, as may be deeded [deemed] necessary.

Proofs.

Section 12. The court in which such proceedings are begun shall allow proof that the drain was necessary and conducive to the public health, convenience or welfare, and that all the steps required by law have been substantially complied with, notwithstanding the record required to be kept by the county drain commissioner. In case no substantial error is found, the court may correct any gross injustice in the award of damages, or assessment of benefits, as may appear after

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hearing the proofs and allegations of both sides and shall make such order in the premises as shall be just and equitable, and may order that such tax or assessment remain on the tax roll for collection or order the same to be relevied, or may perpetually enjoin the same, or any part thereof, or if the same has been paid under protest, may order the whole, or such part thereof as is just and equitable to be refunded. The costs of such proceedings, if error or injustice be shown, shall be apportioned among the parties, or if no manifest error or injustice be shown, such costs shall be collected of the party begining [bringing] the action.

Proceedings when drain has not been legally established.

Section 13. Whenever any drain has been located and established and the work of construction completed or partly completed, and payment or provisions for payment for the same has not been legally made, the county drain commissioner shall, on application being made to him by any person or persons interested in the construction and maintenance of the said drain and the assessment of taxes therefor and for the payment of the same, without unnecessary delay proceed to relay and complete such drain under the provisions of this act, and reassess upon such lands benefited by said drain and the original cost thereof, together with the expense of relaying and completing, and continue so to do until said drain has been legally established and constructed: Provided, That on such relay or completion of drain proceedings it shall not be necessary to readvertise a day of letting, but he shall advertise a day of review for benefits, which review may be held at the office of the county drain commissioner: Provided further, That any person who has paid the tax for benefits assessed against him for such drain shall be allowed the amount so paid and the county treasurer or other officer authorized to receive payment for taxes assessed in any county or city shall accept the receipt heretofore issued or the certificate of the county treasurer that such taxes were paid, for the payment of such drain taxes as cash and the same

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to be applied on such renewed assessment. The receipt so received by the county treasurer or other officer shall be credited to him and allowed as money.

Proceedings where tax has been set aside.

Section 14. In case any drain tax assessed, shall be set aside except for causes that would deprive the county drain commissioner of jurisdiction to construct the drain, the commissioner may begin proceedings anew at the stage where they shall be correct. In case a drain tax can or may be set aside for error in description or other defects in the county drain commissioner's or county treasurer's roll, the county drain commissioner shall report same to the board of county commissioners at their next regular session who shall order the same reassessed upon the proper description. Such report may be made at any time before the sale of the land for such tax.

Drain Commissioner to be made a party defendant.

Section 15. In any suit brought to set aside any drain tax, in any way attacking the legality of any drain proceedings, the county drain commissioner shall be made a party to said suit, and it shall be the duty of the prosecuting attorney of the county where said drain is situated to defend said drain proceedings.

ARTICLE VI.

DRAINS TRAVERSING MORE THAN ONE COUNTY.

Where drain traverses more than one county.

Section 1. Whenever it may be desired to construct a drain traversing more than one county, or affecting lands lying in more than one county, application therefor shall be made to the county drain commissioner of either county traversed by the proposed drain. Such application shall be subject to the same conditions and the applicants to the same obligations and liabilities as in other drains under this act.

Proceedings of Drain Commissioner after examination.

Section 2. If, upon examination, the county drain commissioner shall deem the same to be necessary and for the good of the public health, convenience or welfare, he shall, as soon as practicable thereafter, fix a time and place of meeting, and notify the county drain

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commissioner or commissioners of such other county or counties to that effect, and furnish him or each of them with a certified copy of such application. Such county drain commissioner or commissioners shall, at the time and place as fixed above, meet with the county drain commissioner having the original application, and they shall thereupon and thereafter jointly take all steps, and perform all acts, and sign all papers, as county drain commissioners are required to do singly in the case of other drains, including the application to the district court.

Proceedings where property owners refuse to release right of way.

Section 3. In case all the persons whose lands are traversed by such drain, as proposed in this article, shall not within twenty days after the issue of the first order of determination as provided in this act, have voluntarily released the right of way therefor and all damages on account thereof, the county drain commissioners shall apply to the judge of each judicial district in which any such unreleased lands may be situated for the appointment of three special commissioners. When such application shall be made and when all papers shall have been found to be in conformity with the provisions of this act the court to whom such application has been made shall appoint such special commissioners and shall deliver to each commissioner a certified copy of the order of the appointment of such special commissioners. Such special commissioners shall be resident freeholders of the county and not residents of the district or districts to be traversed by the proposed drain in which they are appointed. All proceedings had in the appointment of special commissioners, under the provisions of this article shall be similar to those provided herein for the appointment of other special commissioners.

Special Commissioner to be appointed.

Duty of Special Commissioners.

Section 4. When such special drain commissioners shall have been notified of their appointment in the manner as provided herein, they shall at the time and place fixed by the district court, meet with the county drain commissioners of the respective counties in which

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such proposed drain is applied for, and view the whole line of such drain, or such portion thereof as shall be deemed sufficient, and shall, under the same oath and condition, perform their services in the same manner and with like effect as hereinbefore provided in this act for other special commissioners. Before any contract for the construction of any part of such drain shall be let, the county drain commissioners shall agree and determine upon the just per cent of the whole cost of construction which each county shall bear, which determination shall be in writing and signed by them, and a copy thereof made for each county drain commissioner whose county is affected by said drain: Provided, If said county drain commissioners cannot agree and determine the just per cent of the cost of construction that each county should bear, then it shall be their duty to select a county drain commissioner from some adjoining county, not affected by such drain, who shall have the power to determine said per cent for them, and said county drain commissioner's decision of the just per cent shall be final, and they shall make copies of said determination as above provided. The costs and expenses of said other county drain commissioner shall be paid the same as those of the county drain commissioners of the counties affected by such drain.

Proviso.

Section 5. Each commissioner shall thereupon assess within his own jurisdiction such amount, as may have been determined upon and shall assess against the counties such per cent thereof as may be justly charged against them severally by reason of benefits to the public health, convenience or welfare, or as a means of improving any highway, and the balance he shall apportion against the lands in proportion as they will be benefited thereby. Each county drain commissioner shall furnish such several assessments to the clerk of his own county, in which the lands affected thereby may be situated, and such assessments shall be computed, divided, spread, collected and returned in the

Commissioner to assess amount of benefits.

same manner, in every respect, as provided in the case of other drains constructed under this act. Such assessments shall be subject to the same right of appeal and under the same conditions as hereinbefore provided. The taxes for such drains, shall be collected by the county treasurer of their respective counties to be disbursed by him.

Record of drains to be entered in drain record books.

Section 6. A full record of such drains shall be made and entered by the several drain commissioners in the drain record books of their respective counties, and a certified copy of all the papers relative to the construction of such drain shall be delivered to the other county drain commissioners by the drain commissioner having the original application which certified copies shall be filed in the office of the county clerk of their respective counties as original papers are required to be filed and with the same force and effect, and all the original papers shall be filed in the clerk's office in the county in which the application was originally made. The parts of each of such drains situated and lying in any one county shall thereafter be under the care and supervision of the county drain commissioner of such county, subject, however, to the provisions of section VIII of this article.

When drain enters adjoining state.

Section 7. Whenever any proposed drain lies wholly or partly in an adjoining state, or the lands to be drained thereby lie partly in an adjoining state, application for the construction of such drain may be made to any county drain commissioner representing any county in this State in which any portion of such proposed drain or lands to be affected thereby lie, and the same proceedings shall be had touching the portion of such drain or the lands to be drained or affected thereby, lying within this State, as are provided in this act in the case of drains and lands lying wholly within this State: Provided, That before any expense shall be incurred in relation to any such proposed drain, a voluntary release of the right of way for construction of such portion of such drain as may lie without this

Proviso.

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State and an agreement to keep the same or permit the same to be kept clear from obstruction, shall first be obtained from the parties owning lands outside of this State through which such drain or portion thereof is to pass and such release and agreement shall be filed with the said drain commissioner, and shall form a part of the record of his proceedings in the premises.

Repairing drains traversing more than one county.

Section 8. Whenever a drain heretofore established and which was constructed in and traverses more than one county needs cleaning out, deepening, widening and extending, any five freeholders of either county by which such drain is traversed (or affected), one or more of whom shall be owners of land which at the time of its construction was assessed therefor, may make application to the county drain commissioner of either county in which such drain is situated, setting forth the necessity thereof. If, upon examination, such drain commissioner shall deem the same to be necessary and for the good of the public health, he shall, as soon as practicable thereafter, notify the county drain commissioner or commissioners of such other counties and furnish them with a certified copy of such application, and they shall thereupon meet and jointly take such measures as are provided in this article relative to drain traversing more than one county, and act in like manner, as provided in this act in the manner of establishing drains.

ARTICLE VII.

ESTABLISHED DRAINS.

Application to repair drain.

Section 1. Whenever a drain, or any portion thereof, needs cleaning out, straightening, deepening, widening or extending, any five freeholders of the district or districts in which such drain is situated, one or more of whom shall be owners of land liable to an asessment for benefits in the cleaning out, deepening, widening, straightening or extending, as the case may be, may make application in writing to the county drain commissioner by whom it was constructed, or to his successor in office, setting forth its necessity, and the

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county drain commissioner shall, as soon as practicable thereafter, go upon the line thereof and carefully examine such drain, and if, in his judgment, the request of the applicants should be granted, he shall fix the per cent of the cost of cleaning out, that the owner or owners of the lands benefited thereby shall be assessed therefor: Provided, That such assessment shall be made according to benefits, and shall be subject to appeal the same as in the first instance, except that in all cases under this section where drains are only cleaned out, the cost thereof may, in the discretion of the drain commissioner, be assessed upon the same per cent fixed for the construction thereof: And provided further. That whenever any such drain shall need straightening, deepening, widening or extending, the same proceedings shall be had throughout in every respect as are provided in this act for the location and construction of a drain in the first instance. Drains may be cleaned out, deepened, widened, extended or straightened and for any or all such improvements only one application and proceedings will be necessary. It shall not be necessary for the applicants in such proceedings to further describe the drain or drains involved, than by referring to the recorded name or names thereof but a reference to a drain, describing it by its commencement, terminus and general direction shall be sufficient without giving the name of the drain. In cases where a natural water course shall need cleaning out, straightening, deepening or widening, where no valid proceedings have been had to previously establish such water course, it shall be immaterial whether the first proceedings shall be to clean out, lay out, straighten, deepen or widen; but the county drain commissioner shall take such steps as may be necessary to obtain a right of way, as heretofore provided and go on with his proceedings in the manner provided by law.

Proviso.

Proviso.

How assessment for repairs made.

Section II. Such assessment, and the collection, return and enforcement thereof shall be made in the same

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manner, and under the same provisions as in this act provided for drain taxes assessed, collected, returned and enforced in the first instance. In the case the necessity for such cleaning out arises from the act to neglect of any land owner, said act or neglect shall be taken into consideration by the county drain commissioner in such assessment. The work of cleaning out such drain shall be advertised and let, and the contracts therefor awarded and accepted and paid for as provided for in the first instance: Provided, That if there is a surplus in any drain fund the county drain commissioner may, in his discretion, without application or advertisement, pay out of the same reasonable compensation for cleaning out any obstruction that may accumulate in the particular drain for which the fund was raised.

Drains established prior to passage of this act.

Section 3. All drains regularly established, opened or constructed under any provisions of law heretofore existing, shall be deemed to be legal drains under this act, and shall hereafter be under the jurisdiction of the county drain commissioner, and in all drains traversing more than one county and heretofore constructed shall hereafter be under the jurisdiction of the county drain commissioner of the counties traversed by said drain acting jointly, and any drain that has been established for ten years shall be conclusively deemed to have been regularly established, and it shall be the duty of the county drain commissioner, where no records of such drains have been preserved, to see that the records of such drains are made in the most practicable manner in the drain records of their respective counties.

Extent of powers conferred by this act.

Section 4. All powers conferred by this act for establishing and constructing drains and for the enforcement of assessments thereof, shall also extend to and include the deepening, widening and extending of any drains which heretofore have been laid, or may hereafter be constructed; also to straightening, cleaning out and deepening the chennels of creeks and

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streams, and the constructing, maintaining, remodeling and repairing of levees, dykes and barriers, for the purpose of drainage. The county drain commissioner may relocate or extend the line of any drain if the same be necessary, in order to provide a suitable outlet, in which case he shall cause a survey thereof to be made; Provided, That no proceeding affecting the rights of persons or property shall be had under this section except upon a like application, notice, hearing and award prescribed in this act for the construction of drains in the first instance.

Abandonment of drain.

Section 5. The county drain commissioner may, upon proper application as required in this act, and upon giving five days notice thereof by posting only, as provided for the letting in the first instance, declare any drain vacated and abandoned if in his judgment the same has ceased to be of public utility; Provided, That private rights of persons acquired by reason of the location and establishment of such drain shall not be interfered with, or in any way impaired thereby. The party so applying shall pay all expenses of such vacating and abandonment.

Proviso.

Section. 6. Drains for which application has been made or which have been constructed, under the provisions of any law heretofore enacted, may be laid, constructed, completed, relaid, cleaned out, widened, deepened or extended, as the case may be, under the provisions of this act.

Obstruction of drain.

Section 7. Whenever any person shall obstruct any established drain it shall be the duty of the drain commissioner to cause such obstruction to be removed. The person causing such obstruction shall be liable for the expense attending the removal thereof, together with the charges of the drain commissioner, and the same shall be a lien upon the lands of the party causing or permitting such obstruction, and all of the expense shall by the drain commissioner be reported to the board of county commissioners together with the report of his doings in the premises, and by said board

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ordered spread upon the land of the offending party, should the same remain unpaid. Provided That the owner or occupants of the land on which the obstruction is claimed to exist shall be given notice in writing of at least five days to remove such obstruction. This provision as to obstruction of any drain shall not apply where the obstruction was caused by natural causes, but the owner of stock who shall permit his horses, cattle, pigs and other stock to obstruct any drain by tramping in it or otherwise, shall be deemed to be the party causing such obstruction. Nothing contained in this section shall in any way impede or bar the right of any person to make criminal complaint under any existing law for any obstruction of a drain.

Proviso.

ARTICLE VIII.

MISCELLANEOUS.

Section 1. The county commissioners may appoint one deputy or more whose duty it shall be to act in the place of the county drain commissioner when under the provisions of this act they may deem it necessary. Such deputy or deputies when so appointed, shall file a bond with the county commissioners to be approved by them in the sum of one thousand dollars, for the faithful performance of duties. Such appointments, when so made, shall be in writing, and filed with the clerk of the county.

Deputy Commissioners.

Bond.

Section 2. Deputy county drain commissioners shall make a report to the county drain commissioner of all work performed by them on or before the first Wednesday in September in each year and shall receive for their compensation the sum of three dollars per day for each day actually and necessarily spent by them in the discharge of their duties, as prescribed in section one of this chapter.

Report.

Section 3. County clerks shall be authorized and it shall be their duty to procure at the expense of their respective counties the necessary books, blanks and stationery for the use of drain commissioners and each

Books and blanks to be procured by County Clerk.

county drain commissioner shall furnish upon request blank applications to any person who may desire to file an application for the locating of any drain.

Compensation of Drain Commissioners.

Section 4. Drain commissioners shall receive for their services not to exceed five dollars per day for each day actually and necessarily spent by [them] in the discharge of the duties of their office.

Account to be verified.

Section 5. The accounts of such drain commissioner or his deputy shall be verified by the oath of the drain commissioner or deputy.

Compensation of juries and Special Commissioners.

Section 6. Juries and special commissioners shall receive the same compensation as the deputy county drain commissioners, and newspaper publishers shall receive contract rates for advertising.

Duty of Attorney General.

Section 7. It shall be the duty of the Attorney General upon the passage of this act to revise, or cause the same to be done under his supervision, the set of blank forms now in use and required under the provisions of this act, to conform to the said provisions thereof; and it shall be the duty of the Secretary of State to publish a sufficient number of copies of this act in pamphlet form with an index thereto, together with an appendix containing a copy of all such blank forms.

Duty of Secretary of State.

Misdemeanor.

Section 8. If any person shall wilfully or maliciously remove any section or grade stake set along the line of any drain, or obstruct or injure any drain, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars, and the costs of prosecution or in default of the payment thereof, by imprisonment in the county jail not exceeding ninety days.

Penalty.

Duty of County Attorney.

Section 9. In all proceedings under this act when the State shall be an interested party and liable to be assessed for benefits, it shall be the duty of the prosecuting attorney of the county in which such lands are situated, to represent the interests of the State, and to appear in its behalf, and he shall make a report

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of his actions in each case to the Register of the Land Office.

County Commissioners to direct publication.

Section 10. The publication of all matters provided for in this act shall be by the order and direction of the county commissioners.

Duty of Commissioner in case of interest.

Section 11. Whenever the county drain commissioner of any county shall receive a petition asking for the laying out, cleaning out, deepening or widening of any drain, or a petition asking proceedings by virtue of which any assessment upon lands for benefits received would result, wherein such county drain commissioner shall be interested by reason of himself, wife or child, owning lands that would be liable to an assessment for benefits upon the work or proceeding proposed to be done or had, and in cases where such county drain commissioner may be otherwise disqualified to act in the premises, such county drain commissioner shall file such petition with the judge of the District Court, together with a statement signed by him, showing that he is disqualified to act in the premises.

Special Commissioners to be appointed.

Section 12. Where the fact of such disqualification is known to the signers of the petition, they may file such petition directly with the judge of the district court at their option, requesting the appointment of a special county drain commissioner to act upon the drain question.

Duty of Judge of District Court.

Section 13. Upon receiving such petition, and certificate or request aforesaid, the judge of the district court shall give notice by publication of the filing of a petition, and of a day of hearing to consider the appointment of such special county drain commissioner. Such notice shall recite that a petition affecting a certain drain, naming the location in the townships to be affected thereby, has been filed with him, and that it is claimed that the county drain commissioner is disqualified to act thereon, and shall fix the day of hearing to determine whether such county drain commissioner is disqualified, and if he is, to appoint a special county drain commissioner in the premises. Such no-

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tice shall be printed in some newspaper published and of general circulation in the county in which the drain is situated for two weeks next prior to the day of hearing so fixed. Such publication shall be full and complete notice to any and all parties in interest.

Hearing.

Section 14. On such day of hearing or to such other time or times as the court may adjourn, not exceeding thirty days in all, the court shall proceed to hear the allegations of the parties in interest and shall determine whether or not the county drain commissioners is disqualified to act in the premises. If the county drain commissioners shall be found not to be disqualified, the court shall order the proceedings before it dismissed and turn such petition over the county drain commissioner for his action thereon. If the county drain commissioner shall be found not to be disqualified, the court shall order the proceedings befor it dismissed and turn such petition over the county drain commissioner for his action thereon. If the county drain commissioner shall be found to be disqualified in the premise, the court shall thereupon appoint some disinterested resident of said county not a resident or freeholder of the districts proposed to be affected by the drain in question, to act as a special county drain commissioner of and over the drain in question.

Powers of Special Commissioner.

Section 15. For the purpose of carrying on and completing the proceedings on said drain, and the construction and work thereon, such special county drain commissioner shall have all of the powers of the county drain commissioner over said drain and its drainage or assessing district, and shall take all of the steps and proceedings the county drain commissioner should take by law in like circumstances where he is not interested.

Bond.

Section 16. Such special county drain commissioner shall qualify within ten days after notice of such appointment before the Clerk of the District Court giving a bond in the penal sum of two thousand dollars,

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with surety or sureties to be approved by such clerk, conditioned in the same manner as is required in the bond of the county drain commissioner.

Compensation

Section 17. Such special county drain commissioner shall receive the same compensation as shall be allowed to the county drain commissioner, and his services shall be allowed in the same manner as is or shall be provided for allowing the services of the county drain commissioner, and shall be paid from the drain fund of the drain upon which he works.

Duties.

Section 18. Such special county drain commissioner shall make his assessment for benefits, and rolls upon such drain, and deliver the same to the county drain commissioner, by him to be delivered to the proper officers with his other rolls. Such special county drain commissioners shall likewise certify to the county commissioners orders to be drawn upon such drain fund, and the county commissioners shall draw the orders so certified; Provided, The county commissioners shall not be obliged to draw such orders if they shall ascertain that the work for which they are to be given is not done as certified.

Proviso.

Duty of Special Commissioner upon completion of work.

Section 19. On the completion of the proceedings and the construction of the drain in question, such special county drain commissioner shall deliver all of his papers and proceedings upon said drain to the county drain commissioner to be by him recorded as in other cases.

Special Commissioner when drain traverses more than one county.

Section 20. In the case of a drain affecting more than one county, and any county drain commissioner shall be disqualified to act thereon, a special county drain commissioner for that county shall be appointed in the manner herein provided, with the powers and duties herein provided.

County Drain Commissioner to furnish Special Commissioner papers, etc.

Section 21. The county drain commissioner shall furnish such special drain commissioner the necessary papers and stationery to be paid out of the general fund of the county.

Section 22. When any drain constructed under this

County liable for benefit to highway.

act, drains any public highway, the county, in which such highway is situated, shall be liable for the benefit to such highway, and shall pay therefor out of the road fund of the county. Such benefit shall be determined in the same manner as are benefits to private lands.

Approved March 7th, 1905.

CHAPTER 107.

"An Act to provide for the extermination of wolves and coyotes by inoculating the same with mange, and to place such duties under the charge of the State Veterinarian, and to make an appropriation for such experiments."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

State Veterinarian to demonstate feasibility of producing mange among wolves and coyotes.

The State Veterinarian is hereby instructed and it shall be his duty to at the earliest possible moment secure a sufficient number of wolves, wolf pups, coyotes and coyote pups to demonstrate fully the feasibility of producing among them the contagious disease known as Mange and that not less than six wolves and six coyotes shall be so obtained in each of the following counties of the State: Dawson, Custer, Valley, Fergus, Chouteau, Teton, Meagher and Rosebud.

Section 2.

How infected animals distributed.

A suitable person shall be selected in each county who shall be a person that is an owner of and interested in live stock growing, such designated person shall have charge of and keep in captivity such wolves and coyotes, and shall when the same are fully infected with said disease or diseases, convey the same in six different directions from the place said animals are kept, not less than eight miles away in each direction.

Section 3.

Compensation for capturing wolves and coyotes for experimental purposes.

For capturing, detaining in captivity and distributing such wolves and coyotes, said person shall receive

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not more than Fifteen ($15.00) Dollars per head to be paid out of the fund herein provided for.

Section 4.

Duty of State Veterinarian.

It shall be the State Veterinarian's duty to inoculate such wolves and coyotes with said disease and to assure himself that all such wolves or coyotes are fully infected before being released; and it shall be his further duty to obtain reports from stockmen in the various counties in which said disease is produced and make a detailed report of results to the next Legislature.

Section 5.

Appropriation to carry out provisions of this act.

There is hereby appropriated for this purpose the sum of Two Thousand, Five Hundred ($2,500.00) Dollars, which sum shall be used in payment for and the keeping and distribution of such wolves and coyotes and to defray any necessary expense of the State Veterinarian in carrying out the provisions of this Act.

Section 6.

When act takes effect.

This Act shall take effect and be in full force from and after its passage and approval by the Governor.

Approved March 10, 1905.

CHAPTER 108.

An Act to amend Section 4024 of the Political Code of the State of Montana, relating to the protest of Taxes, and providing for an action at law to recover taxes paid under protest, by adding thereto a Section to be known as Section 4024-A, relating to assessment and collection of Taxes.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Section 4024 of Political Code amended.

That Section 4024 of the Political Code of the State of Montana, be, and the same is hereby amended so as to read as follows:

Section 4024.

That in all cases of levy of taxes, licenses or other

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Taxes may be paid under protest.

demands for public revenue, which is deemed unlawful by the party whose property is thus taxed, or from whom such tax or license is demanded or enforced, such party may pay under protest such tax or license or any part thereof deemed unlawful, to the officers designated and authorized by law to collect the same; and thereupon the party so paying, or his legal representative, may bring an action in any court of competent jurisdiction against the officer to whom said tax or license was paid or against the county or municipality on whose behalf the same was collected, to recover such tax or license or any portion thereof paid under protest.

"The tax so paid under protest shall be held by the County Treasurer and no part thereof paid to the State Treasurer until the determination of any action brought for the recovery thereof."

Section 4024-A.

Whenever any person has delivered to the Assessor a sworn statement of his property subject to taxation as now provided by law, and giving the estimated value of such property, and the Assessor shall increase such estimated value, or add other property to such assessment list, he shall at least ten days prior to the meeting of the County Board of Equalization, give to such person written notice of such change, which notice shall be substantially in the following form:

Assessor to notify owner of property of change in sworn statement.

(Date).....

Mr.....

A change has been made in your assessment list as follows:

Assessor.....County.

Such person may then appear before the County Board of Equalization, ascertain the nature of such change, and contest the same; and if the assessment of any such person has been added to, or changed, either by the Assessor or by the County Board of Equalization, and such person has not been notified thereof and given an opportunity to contest the same before

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the County Board of Equalization, the tax on such increased value or added property shall, upon such facts being established, be adjudged by the Court to be void, and such facts and all questions relating thereto, when said tax has been paid under protest, may be heard and determined in the action provided for in said Section 4024 of the Political Code.

May contest payment of taxes.

When any person has appeared before the County Board of Equalization, and has contested the increase in the estimated value of his property, or the addition of other property to his assessment list, and is aggrieved at the final action of the Board in making or allowing such increase or addition, he may, in the action provided for in said Section 4024 of the Political Code, contest and litigate the payment of taxes on such increased valuation or added property list on the same grounds and for the same reasons that he had contested the same before the County Board of Equalization, and for no other reason and on no other ground.

Proviso.

Provided, that any action instituted for the purpose of recovering any tax paid under protest for any of the reasons mentioned in this Section (Sec. 4024-A) shall be commenced on or before the 30th day of November, of the year in which such tax was paid.

Proviso.

Provided further, that when any action is instituted to recover any tax paid under protest on the ground and for the reason that the valuation of the property as increased by the Board of Equalization or assessor, is an over-valuation of such property, the jury in the case shall determine the actual value of such property at the time the same became liable for taxes, and if the value as fixed by the jury is in excess of the amount on which taxes were levied, the plaintiff shall be liable in damages equal to the product obtained by multiplying such excess valuation as found by the jury by the rate per cent at which taxes were levied in the municipality where the property was assessed for the year the protest was made.

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Section 2.

All Acts and parts of Acts in conflict herewith are hereby repealed. Repealing clause.

Section 3.

This Act shall be in full force from and after its passage and approval. When act takes effect.

Approved March 13, 1905.

SUBSTITUTE FOR HOUSE BILL No. 261.

An Act Making Appropriations for the Eexutive and Judicial Department of the State Government for the Fiscal years ending November 30, 1905 and November 30, 1906.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or as much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated for the objects hereinafter expressed for the fiscal year ending November 30, 1905

Executive Department.

For salary of Governor, Five Thousand Dollars.

For salary of Governor's Secretary, Two Thousand Dollars four Hundred Dollars.

For salary of Governor's Stenographer, One Thousand, Two Hundred Dollars.

For the Governor's office expense, Five Hundred Dollars.

For Requisition, One Thousand Dollars.

For salary of the Secretary of State, Three Thousand Dollars.

For salary of the Deputy Secretary of State, One Thousand eight Hundred Dollars.

For salary of Stenographer of the Secretary of State, One Thousand, Five Hundred Dollars.

For extra Clerical Hire Secretary of State, Four Hundred and Fifty Dollars.

For indexing Laws Extra Clerical Hire, One Hundred and Fifty Dollars.

For postage and expressage for forwarding Session Laws and Journals, Two Hundred Dollars.

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For office expense of the Secretary of State, Six Hundred Dollars.

For salary of the State Treasurer, Three Thousand Dollars.

For salary of Deputy State Treasurer, One Thousand Eight Hundred Dollars.

For salary of a Clerk to the State Treasurer, One Thousand, five Hundred Dollars.

For Office Expense of the State Treasurer, Three Hundred and Fifty Dollars.

For salary of the Attorney General, Three Thousand Dollars.

For salary of the first Assistant Attorney General, Two Thousand Dollars.

For salary of the Second Assistant Attorney General, One Thousand Eight Hundred Dollars.

For salary of stenographer Attorney General, Twelve Hundred Dollars.

For office and traveling expense and extra clerical hire of Attorney General Four Hundred and Fifty Dollars.

For salary of the State Auditor, Three Thousand Dollars.

For salary of the Deputy State Auditor, One Thousand Eight Hundred Dollars.

For salary of Insurance Clerk to State Auditor, One Thousand five Hundred Dollars.

For salary of stenographer to State Auditor, One Thousand, two Hundred Dollars.

For office expense and extra clerical hire of State Auditor Four Hundred and Fifty Dollars.

For salary of the Superintendent of Public Instruction, Two Thousand Five Hundred Dollars.

For salary of Deputy Superintendent of Public Instruction, One Thousand Eight Hundred Dollars.

For salary of Stenographer to Superintendent of Public Instruction, One Thousand Two Hundred Dollars.

For Office and travelling expense of Superintendent of Public Instruction, One Thousand, Two Hundred Dollars.

For Salary of State Examiner, Two Thousand, Five Hundred Dollars.

For salary of Assistant State Examiner, One Thousand Eight Hundred Dollars.

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For salary of stenographer State Examiner, One Thousand, Two Hundred Dollars.

For office expense of State Examiner One Thousand Five Hundred Dollars.

For salary of State Veterinary Surgeon, Two Thousand Five Hundred Dollars.

For salary of Deputy Veterinarian One Thousand Five Hundred Dollars.

For office and travelling expense of State Veterinary Surgeon, One Thousand Two Hundred Dollars.

For salary of the Commissioner of the Bureau of Agriculture, Labor and Industry, Two Thousand, Five Hundred Dollars.

For salary of clerk to the Commissioner of the Bureau of Agriculture, Labor and Industry, One Thousand Eight Hundred Dollars.

For office and travelling expense of the Bureau of Agriculture, Labor and Industry, One Thousand, Five Hundred Dollars.

For salary of the State Boiler Inspector, Two Thousand, Four Hundred Dollars.

For salary of the Assistant State Boiler Inspector, One Thousand Eight Hundred Dollars.

For the Office and traveling expense of the State Boiler Inspector, Three Thousand Five Hundred Dollars.

For salary of the State Mine Inspector, Two Thousand Four Hundred Dollars.

For salary of the Assistant State Mine Inspector, One Thousand, Six Hundred and Fifty Dollars.

For the Office and travelling Expense of the State Mine Inspector, Two Thousand Dollars.

For the salary of the State Coal Mine Inspector, Two Thousand Dollars.

For the office and travelling expense of the State Coal Mine Inspector, One Thousand Five Hundred Dollars.

For salary of the Adjutant General of the State of Montana, One Thousand two Hundred Dollars.

For the maintenance of the National Guard, Five Thousand Dollars.

For office expense, Adjutant General, Five Hundred Dollars.

For Encampment National Guard, Five Thousand Dollars.

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For the Expense of the State Board of Education, Eight Hundred Dollars.

For salary of the clerk of the State Board of Equalization, Board of Pardons, Board of Prison Commissioners, and Board of Commissioners of the Insane, One Thousand Eight Hundred Dollars.

For the expense of the clerk of the State Board of Equalization, Board of Pardons, Board of Prison Commissioners and Board of Commissioners of Insane, One Hundred Dollars.

For salary of Librarian of the State Law Library, One Thousand Five Hundred Dollars.

For the Maintenance and expense of the State Law Library, Seven Hundred Dollars.

For Books for the State Law Library, Seven Hundred and Fifty Dollars.

For shelving and Book Cases, State Law Library, Four Hundred Dollars.

For salary of the Librarian of the State Historical and Miscellaneous Department, One Thousand Five Hundred Dollars.

For salary of the First Assistant Librarian of the Historical and Miscellaneous Department, Eight Hundred Dollars.

For the Expense of the State Historical and Miscellaneous Department Two Thousand Five Hundred Dollars.

For salary of the Secretary of the State Board of Horticulture, One Thousand Dollars.

For salary of the Clerk of the State Board of Examiners, One Thousand Eight Hundred Dollars.

For the Office Expense of the State Board of Examiners, One Hundred and Fifty Dollars.

For salary of the Secretary of the State Board of Health, One Thousand Two Hundred Dollars.

For the Office and Travelling Expense of the State Board of Health, Eight Hundred Dollars.

For the expenses of the State Board of Charities and Reform, Three Hundred Dollars.

For salary of the Secretary of the Bureau of Child and Animal Protection, One Thousand, Two Hundred Dollars.

For the expenses of the Secretary of the Bureau of Child and Animal Protection, Eight Hundred Dollars.

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For salary of Deputy Secretary of the Bureau of Child and Animal Protection, One Thousand Two Hundred Dollars.

For clerk hire for office of Secretary of the Bureau of Child and Animal Protection, Three Hundred Dollars.

For Public Printing Twelve Thousand Dollars.

For maintenance and care of the Capitol Building and grounds, Sixteen Thousand Dollars.

For expenses of the State Entomologist, Three Hundred Dollars.

For salary of the State Engineer, Two Thousand Five Hundred Dollars.

For the Expenses of the Carey Land Act Board, One Thousand Five Hundred Dollars.

Judicial Department.

For the fiscal year ending November 30, 1905.

For the salary of Five Justices of the Supreme Court, Twenty Thousand Dollars.

For the salary of the Clerk of the Supreme Court, Two Thousand Dollars.

For salary of the stenographer of the Supreme Court, One Thousand Eight Hundred Dollars.

For compensation of the Justices of the Supreme Court for services in reporting decisions, Seven Thousand Five Hundred Dollars.

For salary of the Marshall of the Supreme Court, One Thousand Two Hundred Dollars.

For salary of the attendant of the Justices of the Supreme Court, One Thousand Dollars.

For the expenses of the clerk of the Supreme Court, Five Hundred Dollars.

For the salary of three Supreme Court Commissioners for four months, Four Thousand Dollars.

For salary of the stenographer of the Supreme Court Commissioners for four months, Six Hundred Dollars.

For the salary of District Judges, Fifty-two Thousand Five Hundred Dollars.

For the salary of County Attorneys, Twenty-two Thousand Six Hundred and Fifty Dollars.

Section 2. That the following sums, or so much thereof as may be necessary be, and the same is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, for the

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objects hereinafter expressed, for the fiscal year ending November 30, 1906:

Executive Department.

For salary of Governor, Five Thousand Dollars.

For salary of Governor's Secretary, Two Thousand Four Hundred Dollars.

For salary of Governor's stenographer, One Thousand Two Hundred Dollars.

For the Governor's office expenses, Five Hundred Dollars.

For requisition, One Thousand Dollars.

For salary of the Secretary of State, Three Thousand Dollars.

For salary of Deputy Secretary of State, One Thousand Eight Hundred Dollars.

For salary of stenographer of Secretary of State, One Thousand Five Hundred Dollars.

For extra clerical hire, Secretary of State, One Hundred and Fifty Dollars.

For office expense of the Secretary of State, Six Hundred Dollars.

For salary of the State Treasurer, Three Thousand Dollars.

For salary of the Deputy State Treasurer, One Thousand Eight Hundred Dollars.

For salary of Clerk to the State Treasurer, One Thousand Five Hundred Dollars.

For office expense of the State Treasurer, Three Hundred and Fifty Dollars.

For salary of the Attorney General, Three Thousand Dollars.

For salary of the First Assistant Attorney General, Two Thousand Dollars.

For salary of the Second Assistant Attorney General, One Thousand Eight Hundred Dollars.

For salary of stenographer, Attorney General, Twelve Hundred Dollars.

For office and travelling expenses and extra clerical hire of Attorney General, Four Hundred and Fifty Dollars.

For salary of the State Auditor, Three Thousand Dollars.

For salary of the Deputy State Auditor, One Thousand Eight Hundred Dollars.

For salary of Insurance Clerk to State Auditor, One Thousand Five Hundred Dollars.

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For salary of stenographer to State Auditor, One Thousand Two Hundred Dollars.

For office expenses and extra clerical hire of State Auditor, Four Hundred and Fifty Dollars.

For salary of Superintendent of Public Instruction, Two Thousand Five Hundred Dollars.

For salary of Deputy Superintendent of Public Instruction, One Thousand Eight Hundred Dollars.

For salary of stenographer to Superintendent of Public Instruction, One Thousand Two Hundred Dollars.

For office and travelling expenses of Superintendent of Public Instruction, One Thousand Two Hundred Dollars.

For salary of the State Examiner, Two Thousand Five Hundred Dollars.

For salary of Assistant State Examiner, One Thousand Eight Hundred Dollars.

For salary stenographer State Examiner, Twelve Hundred Dollars.

For office expenses of the State Examiner, One thousand Five Hundred Dollars.

For salary of the State Veterinary Surgeon, Two Thousand Five Hundred Dollars.

For salary of Deputy State Veterinarian, Fifteen Hundred Dollars.

For the office and travelling expense of the State Veterinary Surgeon, Twelve Hundred Dollars.

For salary of the Commissioner of the Bureau of Agriculture, Labor and Industry, Two Thousand Five Hundred Dollars.

For salary of clerk to the Commissioner of the Bureau of Agriculture, Labor and Industry, One Thousand Eight Hundred Dollars.

For the office and travelling expense of the Commissioner of the Bureau of Agriculture, Labor and Industry, One Thousand Five Hundred Dollars.

For salary of the State Boiler Inspector, Two Thousand Four Hundred Dollars.

For salary of the Assistant State Boiler Inspector, One Thousand Eight Hundred Dollars.

For office and travelling expense of the State Boiler Inspector, Three Thousand Five Hundred Dollars.

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For salary of the State Mine Inspector, Two Thousand Four Hundred Dollars.

For salary of the Assistant State Mine Inspector, One Thousand Six Hundred and Fifty Dollars.

For the office and traveling expense of the State Mine Inspector Two Thousand Dollars.

For salary of the State Coal Mine Inspector, Two Thousand Dollars.

For the office and travelling expense of the State Coal Mine Inspector, One Thousand Five Hundred Dollars.

For salary of the Adjutant General of the State of Montana, One Thousand Two Hundred Dollars.

For the maintenance of the National Guard, Five Thousand Dollars.

For office expenses Adjutant General, Five Hundred Dollars.

For the expense of the State Board of Education, Eight Hundred Dollars.

For salary of the Clerk of the State Board of Equalization, State Board of Pardons, Board of Prison Commissioners, and Board of Commissioners of the Insane, One Thousand Eight Hundred Dollars.

For the expense of the clerk of the State Board of Equalization, Board of Pardons, Board of Prison Commissioners, and Board of Commissioners of the Insane, One Hundred Dollars.

For salary of the Librarian of the State Law Library, One Thousand Five Hundred Dollars.

For the maintenance and expense of the State Law Library, Seven Hundred Dollars.

For Books for the State Law Library, Seven Hundred and Fifty Dollars.

For salary of the Librarian of the Historical and Miscellanoeus Department, One Thousand Five Hundred Dollars.

For salary of the First Assistant Librarian of the Historical and Miscellaneous Department, Eight Hundred Dollars.

For the expense of the State Historical and Miscellaneous Department, Twenty five Hundred Dollars.

For salary of the Secretary of the State Board of Horticulture, One Thousand Dollars.

For salary of the Clerk of the State Board of Examiners, One Thousand Eight Hundred Dollars.

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For the office expense of the State Board of Examiners, One Hundred and Fifty Dollars.

For salary of the Secretary of the State Board of Health, One Thousand Two Hundred Dollars.

For the office and travelling expense of the State Board of Health, Eight Hundred Dollars.

For the expense of the State Board of Charities and Reform, Three Hundred Dollars.

For salary of the Secretary of the Bureau of Child and Animal Protection, One Thousand Two Hundred Dollars.

For the expenses of the secretary of the bureau of child and animal protection, Eight Hundred Dollars.

For salary Deputy Secretary of the Bureau of Child and Animal Protection, One Thousand Two Hundred Dollars.

For clerk hire for office of Secretary of the Bureau of Child and Animal Protection, Three Hundred Dollars.

For Public Printing Twelve Thousand Dollars.

For Maintenance and care of the Capitol Building and grounds, Sixteen Thousand Dollars.

For the expenses of the State Entomologist, Three Hundred Dollars.

For the Salary of the State Engineer, Two Thousand Five Hundred Dollars.

For the expenses of the Carey Land Act Board, One Thousand Five Hundred Dollars.

Judicial Department.

For the fiscal year ending November 30, 1906.

For salary of Five Justices of the Supreme Court, Twenty Thousand Dollars.

For salary of the clerk of the Supreme Court, Two Thousand Dollars.

For the salary of the stenographer of the Supreme Court, Two Thousand Dollars.

For compensation of the Justices of the Supreme Court, for services in reporting decisions, Seven Thousand Five Hundred Dollars.

For salary of the Marshal of the Supreme Court, One Thousand Two Hundred Dollars.

For salary of the Attendant of the Justices of the Supreme Court, One Thousand Dollars.

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For expenses of the Clerk of the Supreme Court, Five Hundred Dollars.

For the salary of the District Judges, Fifty-two Thousand Five Hundred Dollars.

For the salary of the County Attorneys, Twenty-three Thousand and Fifty Dollars.

Approved March 3, 1905.

HOUSE BILL NO. 303.

An Act making Appropriations for the State Institutions of Montana for the Fiscal Years Ending November 30, 1905, and November 30, 1906.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same is, hereby Appropriated out of any money in the State Treasury not otherwise appropriated, for the objects hereinafter expressed for the fiscal year ending November 30, 1905:

For the maintenance of the Insane, One Hundred and Thirty Thousand Dollars ($130,000.00).

For the maintenance of the State Prison, Eighty Thousand Dollars ($80,000.00).

For the maintenance of the Agricultural College, Seventeen Thousand Five Hundred Dollars ($17,500.00).

For the maintenance of the Experimental Station of the Agricultural College, Five Thousand Dollars ($5,000.00).

For Experimental purposes, Experimental Station, Agricultural College, One Thousand Dollars ($1,000.00).

For the maintenance of the Reform School, Twenty-four Thousand Dollars ($24,000.00).

For the maintenance of the School for the Deaf and Blind, Twenty-five Thousand Seven Hundred five Dollars ($25,705.00).

For the maintenance of the State Normal School, Twenty-nine Thousand Eight Hundred forty five Dollars ($29,845.00).

For the maintenance of the State University, Forty-seven Thousand Dollars ($47,000.00).

For the maintenance of the State School of Mines, Twenty-eight Thousand Eight Hundred Sixty Dollars ($28,860.00).

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For the maintenance of the State Orphans Home, Twenty-six Thousand Dollars ($26,000.00).

For the maintenance of the Soldiers Home, Seven Thousand One Hundred Dollars, ($7,100.00).

For the maintenance of the State Fair Association, Seven Thousand Five Hundred Dollars ($7,500.00).

For the salary of the Secretary of the State Fair Association, Twelve Hundred Dollars ($1,200.00).

Section 2. That the following sums, or so much thereof as may be necessary, be, and the same are, hereby Appropriated out of any money in the State Treasury not otherwise appropriated, for the objects hereinafter expressed for the fiscal year ending November 30, 1906:

For the maintenance of the Insane, One Hundred and Thirty Thousand Dollars ($130.000.00).

For the maintenance of the State Prison, Ninety Thousand Dollars ($90,000.00).

For the experimental purposes, Experimental Station, Agricultural College, One Thousand Dollars ($1,000.00).

For the maintenance of the Agricultural College, Eighteen Thousand Dollars ($18,000.00).

For the maintenance of the Experimental Station of the Agricultural College, Five Thousand Dollars ($5,000.00).

For the maintenance of the Reform School, Twenty-six Thousand Dollars ($26,000.00).

For the maintenance of the School for the Deaf and Blind, Twenty Nine Thousand Dollars ($29,000.00).

For the maintenance of the State Normal School, Twenty-nine Thousand Dollars ($29,000.00).

For the maintenance of the State University, Forty-seven Thousand Five Hundred Dollars ($47,500.00).

For the maintenance of the State School of Mines, Twenty-eight Thousand Seven Hundred Fifty Dollars ($28,750.00).

For the maintenance of the Orphans Home, twenty-six Thousand Dollars ($26,000.00).

For the maintenance of the Soldiers Home, Twelve Thousand Dollars ($12,000.00).

For the maintenance of the State Fair Association, Seven Thousand Four Hundred Dollars ($7,400.00).

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For the salary of the Secretary of the State Fair Association, Twelve Hundred Dollars ($1,200.00).

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 3, 1905.

HOUSE BILL NO. 13.

An Act to appropriate moneys for the payment of mileage and per diem for the members of the ninth Legislative Assembly of the State of Montana; also for the payment of per diem of the officers and Attaches thereof.

Be it Enacted by the Legislative Assembly of the State of Montana.

Section 1.

That the sum of Forty-five Thousand Dollars ($45,000.00) or so much thereof as may be necessary, be and the same is hereby appropriated out of any funds not otherwise appropriated, for the payment of mileage and per diem for the members of the Ninth Legislative Assembly of the State of Montana.

Section 2.

That the sum of Eighteen Thousand Dollars ($18,000.00) or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys not otherwise appropriated for the payment of the per diem of the officers and attaches of the Ninth Legislative Assembly of the State of Montana.

Section 3.

That this Act shall be in force and effect from and after its passage and approval.

Approved Jany 14th 1905

HOUSE BILL NO. 14.

An Act making Appropriation for the Incidental Expenses of the Ninth Legislative Assembly of the State of Montana.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That the sum of Twelve Thousand Dollars ($12,000.00) or so much thereof as may be necessary, be and the same is hereby appropriated, to pay the incidental expenses of the Ninth Legislative Assembly of the State of Montana.

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Section 2.

That this Act shall be in force and effect from and after its passage and approval.

Approved Jany 14th 1905

HOUSE BILL NO. 37.

An Act appropriating money for the erecting and equipping additional Buildings for the State Orphans Home at Twin Bridges, Montana.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That the sum of twenty-two thousand ($22,000.00) dollars, or so much thereof as may be necessary be, and the same is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, for the purpose of erecting a school building, a building for the lighting and heating plant including a laundry building, a cottage building, and for equipping and converting the present school building into a cottage for the State Orphans Home at Twin Bridges, as follows:

Section 2.

That the sum of Nine Thousand ($9,000.00) dollars, or so much thereof as may be necessary be, and the same is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, for the purpose of erecting a school building and equipping the same for the State Orphans Home at Twin Bridges, Montana.

Section 3.

That the sum of Seven thousand ($7,000.00) dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, for the purpose of erecting a building for the heating and lighting plant and laundry room in connection with the same, for the State Orphans Home at Twin Bridges, Montana.

Section 4.

That the sum of Five Thousand dollars ($5,000.00), or so much thereof as may be necessary, be and the same is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, for the purpose of building a cottage for the State Orphans Home at Twin Bridges, Montana.

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Section 5.

That the sum of One Thousand Dollars ($1,000), or so much thereof as may be necessary, be and the same is hereby appropriated, out of any funds in the State Treasury, not otherwise appropriated, for the purpose of converting the present school building at the State Orphans Home into a cottage for the State Orphans Home at Twin Bridges, Montana.

Section 6.

The aggregate sum of $12,000.00 appropriated by Sections 3 and 4 of this Act is appropriated for the fiscal year ending November 30th, 1905; and the sum of $10,000.00 appropriated in Section 2 and 5 is appropriated for the fiscal year ending November 30th, 1906.

Section 7.

That this Act shall take effect and be in full force from and after its passage and approval by the Governor.

WYLLYS A. HEDGES,
Speaker of the House
EDWIN NORRIS
President of the Senate

IN THE HOUSE

March 2-05. Bill received from Governor with his objections. Objections read and bill passed notwithstanding the objections of the Governor. Transmitted to the Senate.

This Bill having been returned by the Governor with his objections thereto, and after reconsideration having passed both houses by the constitutional majority, become a law on the 2nd day of March, 1905.

EDWIN NORRIS
President of the Senate
WYLLYS A. HEDGES
Speaker of the House of Representatives

March 11, 1905.

This Bill was today handed me by Hon. A. J. Galen Attorney General and the same is deposited with other laws in the office of Secy of State.

J. K. TOOLE
Governor.

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HOUSE BILL NO. 39.

An Act appropriating money for the completing, furnishing and equipping of the Building for Feeble Minded at the Montana School for the Deaf and Blind, at Boulder, Montana, and for the erection and equipment of an additional building, which will contain kitchen, manual training shops, etc., at the Montana School for the Deaf and Blind at Boulder, Mont.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That there be and is hereby appropriated the sum of Fifteen Thousand Dollars for the fiscal year ending November 30th, 1905, or so much thereof as may be necessary, out of any money in the State Treasury, not otherwise appropriated, to be used as follows: For erecting, furnishing and completing a new kitchen, manual training etc. building at the Montana School for the Deaf and Blind and Feeble Minded, at Boulder, Montana.

Section 2. Ten Thousand ($10,000.00) Dollars is hereby appropriated, or so much thereof as may be necessary out of any money in the State Treasury not otherwise appropriated, to be used for furnishing and plumbing the building for the Feeble Minded, and connecting the same with the kitchen; also connecting the building for the Deaf and Blind with the kitchen.

Section 3. This Act shall take effect and be in full force from and after its passage and approval by the Governor.

IN THE HOUSE

March 2-05. Bill received from the Governor with his objections. Objections read and bill passed notwithstanding the objections of the Governor. Transmitted to the Senate.

This Bill having been returned by the Governor with his objections thereto, and after reconsideration having passed both houses by the constitutional majority, become a law on the 2nd day of March, 1905.

EDWIN NORRIS
President of the Senate
WYLLYS A. HEDGES
Mch 11, 1905. Speaker of the House of Representatives.

This Bill was to day handed to me by Hon. A. J. Galen attorney General and the same is deposited with other laws in the office of Secy. of State. J. K. TOOLE Governor.

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HOUSE BILL NO. 82

An Act Appropriating Money for the Payment of the Per Diem and Mileage of Certain Persons on Account of Services as Presidential Electors for the year 1905.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That the sum of Two Hundred Eleven and Sixty Hundredths ($211.60) Dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to pay the claims of the following named persons for the amounts set opposite their names, on account of per diem and mileage as presidential electors for the presidential election of 1905, in accordance with two provisions of Sections 1469 and 1470, of the Political Code, to-wit:

Paul McCormick	$ 53.80
A. W. Merrifield	112.60
Thomas Duncan	45.20

Section 2.

That the State Auditor is hereby authorized to draw his warrants in favor of the persons named and for the amounts set opposite their names in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feby 21, 1905.

HOUSE BILL NO. 87

An Act appropriating money for the payment of the claim of Conley & McTague for the care of prisoners at the State Penitentiary at Deer Lodge.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Twenty-two Thousand Seven Hundred Two and 56-100 ($22,702.56) Dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated, out of any money in the State Treasury not otherwise appropriated, to pay the claim of Conley & McTague for the care of prisoners at the State Penitentiary at Deer Lodge.

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Section 2. The State Auditor is hereby authorized and directed to draw his warrant in favor of said Conley & McTague, for the amount named in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval.

Approved Feby. 3d, 1905

HOUSE BILL NO. 128

An Act Appropriating Money for the Payment of the Claim of Lizzie Murphy for services rendered as stenographer to the office of State Superintendent of Public Instruction, during the months of July, August, September, October and November, 1903.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Three Hundred ($300.00) Dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to pay the said Lizzie Murphy for services rendered as stenographer to the office of State Superintendent of Public Instruction, during the months of July, August, September, October and November, 1903.

Section 2. The State Auditor is hereby authorized to draw his warrant in favor of the said Lizzie Murphy, for the amount named in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feby 27th 1905

HOUSE BILL NO. 158

An Act Appropriating Money for the Payment of Claims of certain persons for Services rendered and supplies furnished to the State School of Mines.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Three Hundred and Eighty-six and 25-100 ($386.25) Dollars, or so much thereof as may be necessary be, and the same is hereby appropriated out of any money in the

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State Treasury not otherwise appropriated, to pay the following named persons for services rendered and supplies furnished to the State School of Mines for the year 1904:

Frank E. Dunn	$200.00
John Huley	25.00
B. E. Calkins	18.50
Butte Water Co	14.28
Butte Gas Light and Fuel Co	47.85
I. Anderson	80.62

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons named, for the amounts set opposite their names, as shown in Section 1, of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in force and effect from and after its passage and approval by the Governor.

Approved Feby 27th 1905

HOUSE BILL NO. 159

An Act Appropriating money for the Payment of Deficiency Claims for Salaries of County Attorneys for the years 1903 and 1904.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Seven Hundred Thirty Seven and Fifty Hundredths ($737.50) Dollars, or so much thereof as may be necessary be and the same is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to pay the following named County Attorneys for services rendered:

C. W. Robson	$24.93
J. A. Matthews	20.42
L. O. Caswell	20.42
R. W. Berry	41.65
C. N. Pray	33.29
J. H. Johnston	24.93
C. C. Hurley	20.42
J. J. McCaffrey	33.29
O. W. Beldon	33.29
C. H. Grubb	33.29
Geo. D. Pease	33.29
D. M. Durfee	20.42

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C. R. Stranahan..... 24.93
Lincoln Working..... 41.65
C. H. Hall..... 41.65
Max Waterman..... 20.42
M. M. Duncan..... 24.93
A. P. Stark..... 24.93
O. E. Emerson..... 20.42
W. P. Baker..... 20.42
J. C. Lyndes..... 24.93
Peter Breen..... 50.01
E. M. Hall..... 20.42
J. E. Erickson..... 24.93
John J. Kerr..... 24.93
C. L. Harris.....33.29

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons named, for the amounts set down opposite their names, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feby 21 1905

HOUSE BILL NO. 160

An Act Appropriating Money for the payment of Deficiency Claims of certain persons for services rendered and supplies furnished the State Reform School.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Three Thousand Four Hundred and Forty Six ($3,446.00) Dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, to pay the following named persons for services rendered and supplies furnished the State Reform School.

C. D. Terrett.....$ 15.00
John S. Truscott..... 35.00
W. A. Jordan..... 40.00
Thomas Gibb..... 40.00
Harvey Leach..... 50.00

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Ernest R. Leihy	50.00
Ernest Shy	45.00
W. N. Kimball	45.00
John Fliechek	75.00
George N. Cheever	50.00
Mrs. Annie Leach	37.50
Mrs. Martha Cheever	40.00
Mrs. Lucretia Shy	10.00
Mrs. Kate Burgel	35.00
Mrs. Amelia Leihy	40.00
Mrs. F. M. Kreidler	50.00
J. B. Hawkins	161.15
Frank Cass	55.00
Rudolph Fritz	42.60
W. B. Jordan Merc. Co	377.61
Dr. A. J. Schrumph	7.00
L. C. Brunning	193.00
W. E. Savage	12.70
George K. Foster & Co	24.45
Ernest Rohde	8.50
C. E. Cogshall	6.00
Calvin Investment Co	279.80
John Gibb	96.30
City of Miles City	60.40
City of Miles City	44.85
Miles & Ulmer	191.15
Montana Hardware Co	193.25
Rocky Mountain Bell Telephone Co	8.85
A. T. Campbell & Co	25.75
M. G. Maples	319.33
Miles City Lumber Co	89.70
W. B. Jordan & Sons	11.15
Jerome Westfall	6.50
Lakin Westfall & Co	439.66
Central Meat Market	116.80
H. C. Smith	17.00

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons named, for the amounts set oppo-

site their names, as shown in Section 1, of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feby 21, 1905.

HOUSE BILL NO. 161

An Act Appropriating Money for the Payment of Deficiency claims of certain persons for services rendered and supplies furnished the Historical Library.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Eight Hundred Forty and 63-100 (840.63) Dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to pay the following named persons for services rendered and supplies furnished the Historical Library:

Robt. Clarke Co.	$451.45
W. H. Taylor	64.00
Henry Murphy assigned to E. C. Babcock	45.00
R. L. Polk & Co	5.00
Capital Lumber Co	11.85
" " "	26.85
" " "	18.85
J. W. Blankenship	80.45
Mary C. Pew	60.00
Great Northern Express Co	23.35
Great Northern Express Co	17.99
Northern Pacific Express Co	12.27
Northern Pacific Express Co	12.25
Northern Pacific Express Co	11.32
	$840.63

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons named, for the amounts set down

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opposite their names, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feby 27 1905

HOUSE BILL NO. 162

An Act Appropriating Money for the Payment of Claims of Certain persons for service rendered to the Office of the Secretary of State.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Thirty-five and 96-100 ($35.96) Dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to pay the following named persons for services rendered to the office of the Secretary of State for the year 1904:

State Publishing Co.	$17.85
State Publishing Co.	14.50
Western Union Telegraph Co.	1.89
Western Union Telegraph Co.	1.72

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons named, for the amounts set down opposite their names, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feby 21 1905

HOUSE BILL NO. 163

An Act Appropriating money for the payment of Deficiency Claims of certain persons for services rendered and supplies furnished the State Orphans Home, at Twin Bridges, Montana.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Two Thousand and Seventeen and 63-100 ($2017.63) Dollars, or such amount thereof as may be necessary be, and the same is hereby appropriated out of any money in the

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State Treasury not otherwise appropriated, to pay the Deficiency Claims of the following named persons for services rendered and supplies furnished the State Orphans Home, at Twin Bridges, Madison County, Montana:

Henry Henricks	$ 70.00
Mrs. Wiley Mountjoy	50.00
Wiley Mountjoy	100.00
E. O. Graves	5.50
Hennessy Merc. Co	6.10
Mrs. H. L. Willette	40.00
Fox Cash Store	8.46
W. M. Oliver	36.00
Pat Carney	37.20
Marcus Elser	29.00
A. J. Wilcomb	18.00
W. J. Galahan	28.28
J. T. Dullea	123.60
Ried & Wilcomb	61.10
Twin Bridges Lumber Co	27.21
Montana Drug Co	35.73
M. S. Gould	17.50
Comfort & Gould	19.40
Wiley Mountjoy	14.83
R. R. Tovey	40.00
Henry Henricks	70.00
Rose Carney	30.00
Ada Edson	30.00
Mrs. A. Desmeris	30.00
Avis Dawson	40.00
Gold Jackson	30.00
Mrs. H. L. Millette	40.00
Jacob Sayger	9.35
Mrs. Emily Greider	9.50
Maud McGuire	35.00
Mrs. Jessie Cowan	25.00
Susan Powell	35.00
Wiley Mountjoy	23.95
Wiley Mountjoy	100.00
Trine M. Hardey	30.00

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Sara Robinson	30.00
Mrs. Olive J. MacDonald	35.00
Mrs. Wiley Mountjoy	50.00
M. S. Gould	17.50
Megley Drug Co	13.35
Madison Co. Monitor	34.00
O. J. Pfouts	60.00
J. T. Dullea	259.75
W. J. Galahan	35.10
Arthur Hunt	20.00
Jefferson Valley Trading Co	100.73
Reid & Wilcomb	78.19

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons named, for the amounts set down opposite their names, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feby 21 1905

HOUSE BILL NO. 164

An Act Appropriating Money for the Payment of the Claims of certain persons for services rendered and supplies furnished in maintenance of the Capitol Building.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Two Thousand Three Hundred and Eighty Six and 14-100 ($2386.14) Dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, to pay the following named persons for services rendered and supplies furnished in the maintenance of the Capitol Building in the year 1904:

Charles L. Curtis	$ 68.00
F. P. Smith	50.00
J. B. McDermott	60.00
J. C. Bennett	60.00
J. W. Yates	60.00
Reese Davis	60.00

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Frank Avery	60.00
Moses Marks	60.00
Minnie V. Nord	60.00
R. W. Hansen	60.00
Mrs. M. L. Burnett	60.00
Mrs. E. C. Allen	60.00
M. J. Murphy	87.20
Tim Murphy	72.50
Will Lynch	31.50
A. M. Holter Hardware Co	6.80
" " " " "	1.25
" " " " "	11.30
" " " " "	2.75
" " " " "	.85
" " " " "	4.50
" " " " "	.30
" " " " "	16.82
" " " " "	1.78
" " " " "	5.00
" " " " "	6.25
" " " " "	.20
" " " " "	1.10
Lissner Liquor Co	7.50
" " "	14.50
Helena Ice Co	30.00
" " "	26.00
" " "	22.52
" " "	19.40
Helena Light & Traction Co	77.70
" " " "	77.40
" " " "	75.00
" " " "	76.50
Helena Water Works Co	231.45
" " "	158.25
Helena Water Works Co	43.60
Sanford and Evans	283.81
" " "	180.40
House of Good Shepherd	13.87
" " "	13.74

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J. C. & C. W. Currah	4.95
J. C. Bennett	2.00
Weinstein & Co	3.55
Helena Hardware Co	1.65
Gibson Soap Co	18.00
Montana Shoeing Co	2.00
G. R. Metten	1.00
House of Good Shepherd	13.35
W. A. Moore Book & Stationery Co	.75
Schoenborn Drug Co	3.00
Benson Carpenter Co	.50
J. C. & C. W. Currah	5.00

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons named, for the amounts set opposite their names, as shown in Section 1, of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feby 27th 1905

HOUSE BILL NO. 165

An Act Appropriating the sum of Seventeen Thousand Dollars ($17,000) for the Payment of Claims of certain persons for moneys advanced for the erection of permanent buildings and improvements on the property of the Montana State Fair.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Seventeen Thousand Dollars ($17,000) or so much thereof as may be necessary, be, and the same is hereby appropriated out of any money in the State Treasury not otherwise appropriated to pay the following named persons for moneys advanced by them for the erection of permanent buildings and improvements on the property of the Montana State Fair in the year 1904, to-wit:

Daly Bank and Trust Co., Butte	$1,000.00
W. A. Clark & Bro., Butte	1,000.00
First National Bank, Butte	1,000.00
State Savings Bank, Butte	1,000.00
American National Bank, Helena	1,000.00

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Union Bank & Trust Co., Helena	1,000.00
National Bank of Montana, Helena	1,000.00
Conrad Banking Co., Great Falls	1,000.00
First National Bank, Great Falls	1,000.00
Great Falls National Bank, Great Falls	500.00
First National Bank, Billings	1,000.00
Yellowstone National Bank, Billings	1,000.00
First National Bank, Missoula	1,000.00
Daly Bank & Trust Co., Anaconda	1,000.00
First National Bank, Dillon	1,000.00
Bank of Fergus County, Lewiston	500.00
First National Bank, Lewiston	500.00
Larrabie Bros. & Co., Deer Lodge	500.00
Madison State Bank, Virginia City	1,000.00

Section 2. The State Auditor is hereby authorized and directed to draw his warrants in favor of the persons named, for the amounts set down opposite their respective names, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in force and effect from and after its passage and approval by the Governor.

Approved Feby 21 1905

HOUSE BILL NO. 166

An Act to Appropriate money for the Payment of the Deficiency Claim of Mitchell & Mussigbrod for the care of Patients of the Insane Asylum for the year 1904.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That the sum of Twenty-Three Thousand Seventeen and Thirty-Five Hundredths ($23,017.35) Dollars, or so much thereof as may be necessary, be, and the same is hereby Appropriated out of any moneys in the State Treasury, not otherwise appropriated, to pay the Deficiency Claim of Mitchell & Mussigbrod for the care of Patients of the Insane Asylum for the year 1904.

Section 2.

The State Auditor is hereby authorized and directed to draw his warrants in favor of the persons named, and for the amount as

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shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved February 21 1905

HOUSE BILL NO. 179

An Act Appropriating Money for the Payment of Deficiency Claims of certain persons for Rewards.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of One Hundred ($100.00) Dollars, or so much thereof as may be necessary be, and the same is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated to pay the following named persons for Rewards:

Frank Lotta & A. G. Reynolds.....$100.00

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons names for the amount set down opposite their names, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feby 20th 1905

HOUSE BILL NO. 180

"An Act Appropriating Money for the Payment of Deficiency Claims for Expense of Attorney General."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Two Hundred Ninety Five and 38-100 (295.38) Dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to pay the following expense of Attorney General for services rendered or material furnished:

Western Union Telegraph Co.....$ .90
Western Union Telegraph Co..... 6.56
James Donovan..... 265.00

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West Publishing Co	16.00
State Publishing Co	6.92
	$295.38

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons named for the amounts set opposite their names, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feby. 21, 1905.

HOUSE BILL NO. 181

An Act Appropriating Money for the Payment of Deficiency Claims of Coal Mine Inspector for Expenses Incurred.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Forty-Four and Eighty Hundredths ($44.80) Dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to pay the Coal Mine Inspector for expenses incurred:

State Publishing Co	$ 4.50
Howard F. Welsh	40.30
	$44.80

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the person named for the amounts set down, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feby 20th 1905

HOUSE BILL NO. 182

An Act Appropriating Money for the Payment of Deficiency Claims of the Game and Fish Warden for Expenses Incurred.

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Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of One Hundred and Forty-seven and 32-100 ($147.32) Dollars, or so much there of as may be necessary, be and the same is hereby appropriated out of any moneys in the State Treasury to the credit of the Fish and Game Fund not otherwise appropriated, to pay the Game and Fish Warden for expenses incurred:

Rocky Mountain Bell Telephone Co.....	$144.76
Western Union Telegraph Co.....	2.06
Western Union Telegraph Co.....	.50
	147.32

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the person named for the amounts set down as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in force and effect from and after its passage and approval by the Governor.

Approved March 2, 1905.

HOUSE BILL NO. 197

An Act Appropriating Money for the Payment of Deficiency Claims of certain persons for services rendered and material furnished the State Veterinarian.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Nine Hundred and Seventy-five and Fifty-eight Hundredths ($975.58) Dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to pay the following named persons for services rendered or material furnished the State Veterinarian:

M. E. Knowles.....	$ 53.08
" " "	71.05
" " "	99.05
" " "	244.75
" " "	108.90
" " "	238.00
R. L. Polk & Co.....	5.00

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Great Northern Express Co.....	13.40
Western Union Telegraph Co.....	33.17
" " " "	10.08
" " " "	7.15
" " " "	12.94
" " " "	19.42
" " " "	8.79
State Publishing Co.....	2.70
State Publishing Co.....	12.65
Northern Pacific Express Co.....	8.85
M. E. Knowles.....	26.60
	$975.58

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons named for the amounts set opposite their names, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feby 27 1905

HOUSE BILL NO. 198.

An Act Appropriating Money for the Payment of Deficiency Claims of certain persons for supplies furnished the Meat and Milk Inspection Board.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Thirty-six and 60-100 ($36.60) Dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to pay the following named persons for supplies furnished the Meat and Milk Inspection Board.

Bausch & Lomb Optical Co.....$36.60

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons named for the amount set opposite their names, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in force and effect from and after its passage and approval by the Governor.

Approved Feby 20 1905

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HOUSE BILL NO 199.

"An Act Making an Appropriation for the Payment of the deficiency Claim of John F. Patterson, for services rendered the State of Montana, as Deputy Sheep Inspector."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of One Hundred and Ninety-two Dollars ($192.00) or so much thereof as may be necessary, be and the same is hereby Appropriated out of any money in the State Treasury not otherwise appropriated, to pay the claim of John F. Patterson for services rendered the State of Montana, as Deputy Sheep Inspector, during the year 1904.

Section 2. The State Auditor is hereby authorized to draw his warrant in favor of the said John F. Patterson for the amount named in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 2, 1905.

HOUSE BILL NO. 201

An Act Appropriating Money for the payment of deficiency claims of the Eighth Legislative Assembly for expenses incurred.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of One Hundred Fifty-seven and 70-100 ($157.70) Dollars or so much thereof as may be necessary, be, and the same is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, to pay the expenses incurred by the Eighth Legislative Assembly:

A. P. Curtin	$ 8.05
A. P. Curtin	42.50
C. B. Jacquemin & Co	10.00
W. A. Moore Stationery	15.00
Western Union Telegraph Co	22.65
Marcus Lissner	40.00
A. M. Holter	17.20
N. Y. Dry Goods Co	2.30

Section 2. The State Auditor is hereby authorized to draw his

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warrants in favor of the persons named for the amounts set down, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 1st 1905

HOUSE BILL NO. 202

An Act Appropriating Money for the payment of deficiency claims of the Bureau of A. L. & I. for expenses incurred.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Thirteen and Forty-three Hundredths ($13.43) Dollars, or so much thereof as may be necessary be, and the same is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to pay the expenses incurred by the Bureau of A. L. & I.

Rocky Mountain Bell Telephone Co.....	$ 6.20
Great Northern Express Co.....	7.23
	$13.43

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons named for this amount set down, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feby 27 1905

HOUSE BILL NO. 203

An Act Appropriating Money for the payment of deficiency claims of the Board of Education for expenses incurred.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Twenty-two ($22.00) Dollars or so much thereof as may be necessary, be, and the same is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to pay the expenses incurred by the Board of Education.

John M. Evans.....$22.00

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Section 2. The State Auditor is hereby authorized to draw his warrant in favor of the person named for the amount set down, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Feby 25 1905

HOUSE BILL NO. 204

An Act Appropriating Money for the payment of the claim of certain Persons for expenses incurred in transporting prisoners to the Penitentiary during the years 1903 and 1904.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Eleven Thousand Six Hundred and Forty Eight dollars and Thirty cents, or so much thereof, as may be necessary be, and the same is hereby appropriated out of any money in the State Treasury not otherwise appropriated to pay the following named persons for expenses incurred in transporting prisoners to the Penitentiary during the years 1903 and 1904.

M. D. Gist	$ 139.15
M. W. Potter	754.45
H. E. Benner	360.00
Geo. B. Williams	836.70
W. E. Savage	1065.90
L. P. Slater	1006.85
T. J. Fowler	483.90
Jeff O'Connell	245.50
Chas. Hill	118.00
C. H. Sherman	92.00
A. S. Robertson	614.25
Chas. Davis	57.40
Joe Northway	172.25
O. A. Fallang	181.40
C. Wallace Taylor	432.65
Harry Casnar	159.50
G. W. Hubbard	822.00
Geo. A. Storris	67.00
John Buckly	1015.30

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H. W. Thompson	361.70
J. J. Quinn	300.00
J. W. Muden	20.00
O. P. Gregg	1247.00
A. V. Gibson	17.25
Granite Company	207.60
	$11648.30

Section 2. The State Auditor is hereby authorized and directed to draw his warrants in favor of the persons named and for the amounts set down opposite their names, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 3, 1905

HOUSE BILL NO. 206.

An Act Approving Duplicate Bounty Certificates Numbers 146 and 222 in favor of Perry L. McCrea and appropriating money for the payment thereof.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That, whereas, the County Clerk of Custer county, Montana, on September 17, 1903, issued to Perry L. McCrea Bounty Certificate No. 146, for the sum of $24.00, and also, on October 30, 1903, issued to said Perry L. McCrea Bounty Certificate No. 222 for the sum of $105.00; and, whereas, the said Perry L. McCrea lost said Bounty Certificates Nos. 146 and 222 and the same have never been presented to, nor paid by, the State of Montana; and, whereas, the State Board of Examiners, at a meeting of said Board on March 22, 1904, refused to allow, and order paid, the duplicate Bounty Certificates issued, in lieu thereof, by said County Clerk and thereupon referred the payment of said duplicate Bounty Certificates to the next Legislative Assembly of Montana for whatever action may seem best; therefore, said duplicate Bounty Certificates, No. 146 for $24.00, and No. 222 for $105.00, issued by the County Clerk of Custer County, Montana, in favor of Perry L. McCrea, in lieu of two certificates for the same amount lost by him, and which duplicates were presented to the State Board of Examiners and referred by it to

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the Legislative Assembly, are hereby approved in the sums above set forth, and there is hereby appropriated out of any money in the State Bounty Fund the sum of $129.00 to pay the said claims of said Perry L. McCrea.

Section 2. The State Auditor is hereby authorized and directed to draw his warrant in favor of the said Perry L. McCrea in the sum specified in this Act.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved Mch 2, 1905

HOUSE BILL NO. 208

An Act Providing for the Appropriating of Money for the Payment of Certain Claims incurred in Election Contest Cases.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of $183.70 be, and the same is, hereby appropriated out of any money in the state treasury, not otherwise appropriated to pay the claims of the following named persons for services rendered to the Committee on Privileges and Election of the House of Representatives in Connection with certain Election Contest Cases.

The name of each claimant and the amount of his claim is as follows:

Finley McRea,	$ 15.00
M. L. White,	15.00
O. M. Holmes,	15.00
M. W. Potter,	8.00
G. L. Findlay,	100.80
Percy Whitmire,	29.90

Section 2. The State Auditor is hereby authorized to draw his warrant on the State Treasurer in favor of said persons named for the amounts set opposite their respective names and the State Treasurer is hereby directed to pay the same.

Section 3. This Act shall take effect and be in full force and effect from and after its passage and approval by the Governor.

Approved March 2, 1905

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HOUSE BILL NO. 209

An Act Appropriating Money for the relief of M. A. Wellman, for Mileage and per diem while in attendance as a De Facto Member of the House of Representatives.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of One Hundred Fifty-four Dollars and Twenty Cents ($154.20) be, and the same is, hereby Appropriated out of any money in the State treasury not otherwise appropriated for payment of M. A. Wellman for mileage and per diem while a De Facto Member of the House of Representatives, pending the decision of the contest for his seat instituted against him by T. W. Richardson.

Section 2. The State Auditor is hereby authorized to draw his warrant on the State Treasurer in favor of said M. A. Wellman for the amount mentioned in Section 1 of this Act.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 2, 1905

HOUSE BILL NO. 242

An Act appropriating money to defray the expenses of the joint Committee, appointed to investigate the penitentiary at Deer Lodge, Montana.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Three Hundred Sixty Six and Sixty Hundredths ($366.60) Dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to pay the expenses incurred by the said Committee.

Senator A. W. Mahon, mileage, 124 miles, $12.40; Hotel, meals on dining car, cab and incidentals $15.00.....$	27.40
Senator B. F. White, mileage, 124 miles, $12.40; Hotel, meals on dining car, cab and incidentals $15.00.....	27.40
Senator S. H. Glidden, mileage, 124 miles, $12.40; Hotel, meals on dining car, cab and incidentals $15.00.....	27.40

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Hon. O. M. Lanstrum, mileage, 124 miles, $12.40; Hotel, meals on dining car, cab and incidentals $15.00.....	27.40
Hon. C. E. Cariher, mileage, 124 miles, $12.40; Hotel, meals on dining car, cab and incidentals $15.00.....	27.40
Hon. J. E. O'Conner, mileage, 124 miles, $12.40; Hotel, meals on dining car, cab and incidentals $15.00.....	27.40
John McMurray, clerk to committee, mileage, 124 miles, $12.40; Hotel and other expenses $10.00; per diem, 19 days at $5.00 per day $95.00; total...	117.40
Senator A. W. Mahon, witness fee and mileage advanced to Nathan Smith, coroner of Powell County.....	8.40
Miss E. Hobart, Stenographer and typewriting, two days.....	10.00
Tom O'Brien, a witness, mileage 144 miles, $14.40; witness fee, three days $9.00; total	23.40
Harry Ponsford, witness, mileage $19.60; two days as witness $6.00; total.....	25.60
August Urbain, Butte, a witness; mileage 144 miles $14.40; witness fee $3.00; total	17.40
	$366.60

Section 2. The State Auditor is hereby authorized to draw his warrant in favor of the persons named for the amounts set down, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in force and effect from and after its passage and approval by the Governor.

Approved March 1st 1905

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HOUSE BILL NO. 247

An Act Making Appropriations to pay the Per Diem of the officers and Attaches of the Ninth Legislative Assembly of the State of Montana.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of six Thousand ($6,000.00) Dollars, or so much thereof as may be necessary, be and the same is hereby Appropriated out of any moneys in the Treasury not otherwise appropriated, to pay the per diem of the officers and attaches of the Ninth Legislative Assembly of the State of Montana.

Section 2. That this Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 2 1905

HOUSE BILL NO. 262.

An Act appropriating money for the payment of claims of certain persons for fees and expenses allowed by law for appraising cattle that were slaughtered by order of the State Veterinarian.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That the sum of Four Hundred Thirty one and Fifty five Hundredths ($431.55) Dollars, or so much thereof as may be necessary, be and the same is hereby Appropriated out of any moneys in stock inspector and indemnity fund the State Treasury, not otherwise appropriated, to pay the following named persons for fees and expenses:

Joel A. Moss	$ 6.60
E. P. Quincy	3.00
Walter D. Kemmis	.90
Lester Brooks	3.00
B. E. Monaghan	3.00
Eli Williams	6.60
H. C. Hollenbeck	6.60
J. T. Phillips	6.50
T. L. Matthews	10.80
Wm. R. McComas	10.80
B. N. Smith	4.50

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L. C. Bevier	15.00
G. M. Lewis	15.00
W. Y. Smith	2.50
E. Hughes	6.60
R. H. Friedl	5.00
W. W. Newton	3.00
S. W. Morein	3.00
C. R. St. Clair	3.00
L. M. Davis	4.15
J. I. Phillips	7.00
Eli Williams	9.60
A. Moss	6.60
Casimer Kamber	2.50
John J. Hoab	4.80
Albert S. Hersey	4.80
Lucius Stadtler	10.80
Chas. Horn	7.80
Adolph Brass	15.00
Robert E. Strobel	4.80
Jacob Adami	12.00
Wm. Beninger	10.00
W. C. Orter	4.60
B. N. Smith	2.50
W. E. Crawley	6.00
L. C. Bevier	6.00
Pat Lane	6.00
L. E. Stiles	36.00
W. H. Race	12.50
C. S. Noble	60.00
E. E. Vetteem	15.00
H. R. Stephens	3.50
McGowan Com. Co	9.00
H. R. Stephens	5.00
A. J. Lansing	3.00
J. I. Phillips	5.00
W. W. White	9.20
Chas. Klane	15.00
Henry Glendening	3.00
John D. Moore	3.00
C. H. Kingwold	12.00

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Section 2.

The State Auditor is hereby authorized to draw his warrants in favor of the persons named for the amounts set opposite their names, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 7 1905

HOUSE BILL NO. 264

INTRODUCED BY APPROPRIATIONS COMMITTEE.

An Act appropriating money for the payment of Claims of D. J. Whaley and C. B. Tabor account Services Rendered the Eighth Legislative Assembly of the State of Montana.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of One Hundred and four dollars ($104.00) be, and the same is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, to pay D. J. Whaley and C. B. Tabor for extra services rendered in typewriting the journal of the Senate of the Eighth Legislative Assembly of the State of Montana as follows, to-wit:

D. J. Whaley	$64.00
C. B. Tabor	40.00
	104.00

Section 2. The State Auditor is hereby authorized to draw his warrant in favor of the said D. J. Whaley and C. B. Tabor for the sum of Sixty-four ($64.00) dollars and Forty ($40.00) Dollars respectively and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 2, 1905

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HOUSE BILL NO. 265.

An Act appropriating money for the payment of deficiency claims of the Public Printing for expenses incurred.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Seven Thousand Eighty Nine, and 17-100 ($7089.17) Dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to pay the expenses incurred by Public Printing.

Standard Pub. Co.	$1037.50
Independent Pub. Co.	1781.42
Press Pub. Co.	239.00
The Tribune, Great Falls	105.75
Bancroft Whitney Co.	1800.00
Butte Evening News	14.50
Western News	82.50
M. C. Morris	75.00
Chouteau Montanian	75.00
Havre Herald	75.00
Shelby Independent	75.00
Dillon Examiner	72.00
River Press Pub. Co.	64.00
Yellowstone Leader	75.00
Nagale & Co.	75.00
Carbon Co. Chronicle	75.00
Bee Pub. Co.	75.00
Glendive Independent	75.00
Missula Journal	82.50
Chronicle Pub. Co.	75.00
Meagher Republican	75.00
North Montana Review	75.00
Livingston Post	75.00
C. B. Robertson	72.00
Butte Miner Co.	75.00
W. Elery Johnson	75.00
Call Pub. Co.	75.00
The Madisonian	75.00
Townsend Star	75.00

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Independent Pub. Co.	75.00
Gallatin Farmer & Stockman	75.00
Northwest Tribune	75.00
Dawson Co. Review,	16.00
Lewistown Democrat	75.00
Silver Star	72.00
	$7089.17

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons named for the amounts set down as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 2, 1905.

HOUSE BILL NO. 267.

An Act to pay employees of the Senate and House, as provided in Section 209, Part 3, Title I, Chapter 2, Article 4, and as provided for in Section 223, Part 3, Title I, Chapter 2, Article 5, of the Political Code, of the State of Montana.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of One Hundred Dollars (100.00) be, and the same is hereby Appropriated to pay, in accordance with Section 209, Part 3, Title I, Chapter 2, Article 4, and as provided for in Section 223, Title I, Chapter 2, Article 5, of the Political Code of the State of Montana, as follows, to-wit:

C. E. Wight, Secretary of the Senate	$50.00
Nathan Godfrey, Chief Clerk of the House	50.00
Total	$100.00

Section 2. The State Auditor is hereby authorized and directed to draw his warrant in favor of the said C. E. Wight and Nathan Godfrey for the sum of Fifty dollars respectively, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be effective from and after its passage and approval by the Governor.

Approved March 2, 1905.

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HOUSE BILL NO. 268.

An Act appropriating money for the payment of the claim of Amelia Breidenbach for services rendered as stenographer to the office of Attorney General during the months of December, 1902, and January, 1903.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of One Hundred and fifty ($150.00) Dollars be, and the same is hereby Appropriated out of any money in the State Treasury not otherwise appropriated, to pay the said Amelia Breidenbach for services rendered as stenographer to the office of Attorney General during the months of December, 1902, and January, 1903.

Section 2. The State Auditor is hereby authorized to draw his warrant in favor of the said Amelia Breidenbach for the amount named in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in force and effect from and after its passage and approval by the Governor.

Approved March 2, 1905.

HOUSE BILL NO. 292.

"An Act making Appropriations for the Executive and Judicial Department of the State Government and Maintenance of State Institutions for the Fiscal year ending November 30, 1905, and for the fiscal year ending November 30, 1906.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or as much thereof as may be necessary, be, and the sum is hereby appropriated for the objects hereinafter expressed, for the fiscal year ending November 30, 1905.

For salary of the Deputy State Boiler Inspector One Thousand Eight Hundred Dollars.

For office and traveling expenses of the State Boiler Inspector, Five Hundred Dollars.

For expenses of the Board of Administration of Farmer's Institute, Four Thousand Dollars.

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For expenses of the State Board of Horticulture, three Thousand Five Hundred Dollars.

Section 2. That the following sums, or as much thereof as may be necessary be, and the same is hereby appropriated for the objects hereinafter expressed, for the fiscal year ending November 30, 1906.

For salary of the Deputy State Boiler Inspector One Thousand Eight Hundred Dollars.

For office and traveling expenses of the State Boiler Inspector Five Hundred dollars.

For expenses of the Board of Administration of Farmer's Institutes Four Thousand Dollars.

For expenses of the State Board of Horticulture, Three Thousand Five hundred Dollars.

Approved March 3, 1905.

HOUSE BILL NO. 300.

An Act appropriating money to defray the expenses of the joint Committee, appointed to investigate the School of Mines, State University, and Insane Asylum.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Ninety Seven and 20-100 ($97.20) Dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated, out of any moneys in the State Treasury, not otherwise appropriated, to pay the expenses incurred by said Committee.

Senator J. C. McCarthy	324 miles.....	$32.40
Hon. A. D. MacDonald	324 "	32.40
Hon. Harold N. Blake	324 "	32.40
		$97.20

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons named for the amounts set down, as shown in section I of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in force and effect from and after its passage and approval by the Governor.

Approved March 2, 1905.

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HOUSE BILL NO. 309.

"An Act appropriating money for the payment of the deficiency claim of James B. Toughill for services rendered as stenographer to the Attorney General During the months of September, October and November, 1904.

Be it Enacted by the Legislative Assembly of the State of Montana:

Sec. 1. That the sum of Three Hundred ($300.00) Dollars be, and the same is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to pay the deficiency claim of James B. Toughill for services rendered as stenographer to the Attorney General during the months of September, October, and November, 1904.

Section 2. The State Auditor is hereby authorized to draw his warrant in favor of the person named for the amount set down as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 3, 1905.

HOUSE BILL NO. 310.

An Act appropriating money for the deficiency claims of certain persons, for services rendered and supplies furnished account of Farmers Institute.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Three Hundred Ninety Five and 50-100 Dollars ($395.50) or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated to pay the following named persons for expenses incurred, and supplies furnished the State of Montana account of Farmers Institute, to-wit:

F. B. Linfield, Traveling Expenses & etc,..	$71.55
M. J. Elrod,.....	63.75
T. T. Black,.....	26.45
W. J. Elliott,.....	33.50
Lillia A. Harkins,.....	29.20
A. T. Thompson Co. Supplies,.....	171.05
	$395.50

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Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the persons for the amounts set opposite their names, as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 3, 1905.

HOUSE BILL NO. 311.

An Act appropriating money for the payment of the claim of the Bozeman Chronicle, Account Printing for the Agricultural College at Bozeman, during the year 1902.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

That the sum of Ninety Nine and Eighty Hundredths (99.80) Dollars, be and the same is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, to pay the said Bozeman Chronicle for printing furnished under contract to the State of Montana for the Agricultural College.

Section 2.

The State Auditor is hereby authorized to draw his warrant in favor of the Bozeman Chronicle, for the amount as shown in Section 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3.

This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 3, 1905.

HOUSE BILL NO. 313.

"An Act appropriating money for the payment of deficiency claims of the Rocky Mountain Bell Telephone company for service rendered the Attorney General's Office of the State of Montana during the years of 1901, 1902 and 1903.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of Ninety-Eight and Fifty One Hundredths ($98.51) Dollars, be, and the same is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated,

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to pay the claim of the Rocky Mountain Bell Telephone Company for service rendered the Attorney General's Office in the State of Montana.

Section 2. The State Auditor is hereby authorized to draw his warrants in favor of the Rocky Mountain Bell Telephone Company as shown in Sections 1 of this Act, and the State Treasurer is directed to pay the same.

Section 3. This Act shall be in force and effect from and after its passage and approval by the Governor.

Approved March 3, 1905.

SENATE JOINT MEMORIAL NO. 1.

To The Honorable Senate And House Of Representatives Of The United States In Congress Assembled:

WHEREAS, experience and the decisions of the federal courts have demonstrated that legislation applying to public carriers engaged in Interstate Commerce is required for the protection and preservation of the rights of the shipper and passenger,

THEREFORE, BE IT RESOLVED, That we, your memorialists, the Ninth Legislative Assembly of the State of Montana, respectfully petition your Honorable Body, in the exercise of the power to regulate commerce between the several States granted by the Constitution of the United States, to speedily enact such legislation as will insure reasonable and equitable rates and charges for the transportation of property and passengers between the States, and prevent unreasonable and unjust discrimination in the conduct of the business of Interstate Commerce, and, to that end, that the Interstate Commerce Commission be given the power and authority not only to determine and establish reasonable rates in lieu of such rates as may be by said Commission adjudged unreasonable:

BE IT FURTHER RESOLVED, That the Secretary of State be, and he is hereby directed to transmit copies of this memorial to the President of the United States, the President of the Senate, the Speaker of the House, and our Senators and Representatives in Congress.

Approved January 30, 1905.

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SENATE JOINT MEMORIAL NO. 2.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled:

WHEREAS; there are now in a portion of the State of Montana, known as the Fort Peck Indian Reservation, many thousand acres of desirable agricultural land in every way adaptable to farming and stock raising far in excess of the needs of the Indians of said reservation, and

WHEREAS; this land embodies some of the choicest agricultural area in Eastern Montana, which is now of no material benefit to said Indians, or a source of revenue to either Federal or State Government, and

WHEREAS; the proposed Milk River Irrigation project, as located by present surveys, will connect with the west boundary of said Reservation, and

WHEREAS; the continuation of the Government Canal onto this Reservation will make one of the most fertile and productive valleys in the State of Montana, and make homes for hundreds of families.

THEREFORE BE IT RESOLVED; that we, your memorialists, the Ninth Legislative Assembly of the State of Montana, earnestly pray and petition the Congress of the United States to enact such legislation as will result in the opening of the Fort Peck Indian Reservation, under conditions similar to the opening of the Crow and Flathead Indian Reservations in this State; and

BE IT FURTHER RESOLVED; that the Secretary of State be, and he is hereby instructed to forthwith transmit copies of this memorial, properly authenticated, to the Honorable Secretary of the Interior and to our Senators and Representatives in Congress from the State of Montana.

Approved February 27, 1905.

SENATE JOINT MEMORIAL NO. 3.

WHEREAS, an association of citizens of this state known as the Thomas Francis Meagher Memorial Association propose to erect a fitting monument commemorative of General Thomas Francis Meagher, and,

WHEREAS, General Meagher rendered to our nation brilliant and valuable service in the war for its preservation and lost his life in

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the discharge of his duties as an officer of the Territory of Montana,

THEREFORE, Be it Resolved, the House concurring, that the said Thomas Francis Meagher Memorial Association be, and it hereby is authorized to erect such monument within the grounds of the State Capitol at Helena, Montana, at such place as has been or may be selected by such association with the approval of the Governor of the State of Montana.

Approved March 3, 1905.

HOUSE JOINT RESOLUTION NO. 1.

Resolution requesting Congress to call a Convention for the purpose of proposing an amendment to the Constitution of the United States, which amendment shall provide for the election of United States Senators by direct vote of the people:

WHEREAS, a large number of the State Legislatures have at various times adopted memorials and resolutions in favor of the election of United States Senators by popular vote;

AND, WHEREAS, the National House of Representatives has, on several occasions, within recent years, adopted resolutions in favor of this proposed change in the method of electing United States Senators, which were not adopted by the Senate;

AND, WHEREAS, Article V of the Constitution of the United States provides that Congress, on the application of the Legislatures of two-thirds of the several states, shall call a convention for proposed amendments;

AND BELIEVING there is a general desire upon the part of the citizens of the State of Montana that the United States Senators should be elected by a direct vote of the people;

THEREFORE BE IT RESOLVED (if the Senate Concur), That the Legislature of the State of Montana favors the adoption of an amendment to the Constitution which shall provide for the election of United States Senators by popular vote, and joins with other states of the Union in respectfully requesting that a convention be called for the purpose of proposing an amendment to the Constitution of the United States, as provided for in Article V of the said Constitution, which amendment shall provide for a change in the present method of electing United States Senators, so that they can be chosen in each state by direct vote of the people.

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RESOLVED, That a copy of this Joint Resolution and application to Congress for the calling of the convention be sent to the Secretary of State of each of the United States, and that a similar copy be sent to the President of the United States, the Speaker of the House of Representatives, and also to each of the United States Senators from Montana and our Representative in Congress.

Approved January 31, 1905.

HOUSE JOINT RESOLUTION NO. 2.

Be it resolved, by the House of the Ninth Legislative Assembly, the Senate concurring, that the State Board of Examiners be, and they are hereby empowered and directed to appoint a Commission of three suitable and competent persons, within thirty days from the passage and approval of this Resolution, and that said Commission so appointed shall have power to examine into and report upon the advisability and feasibility of acquiring a permanent water supply for the use of the State Capitol and Grounds, as recommended in the Governor's message. And be it further,

RESOLVED, That said Commission shall have power to investigate any plans that may be submitted, to secure estimates upon the cost of construction and maintenance of an adequate water system, to gather all requisite information, and present their findings and recommendations to the next Legislative Assembly on or before the first day of the session thereof, and that the State Engineer be, and is hereby directed to co-operate with said Commission, and to perform all the professional services required for the furtherance of the plan outlined by this Resolution.

Approved February 2, 1905.

HOUSE JOINT RESOLUTION NO. 4.

Resolved by the Legislative Assembly of the State of Montana that the action of the government of the United States in extending aid and co-operation in the reclamation of the arid lands of the state is cordially approved, and all officers and agents of the state are instructed to facilitate the operation of the government in reclaiming arid lands of the state in all respects not inconsistent with law.

Approved February 15, 1905.

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HOUSE JOINT RESOLUTION NO. 7.

RESOLVED, by the Senate and House of Representatives of the State of Montana, That the President of the United States is entitled to our zealous support, and merits our earnest endorsement in his heroic struggle and untiring efforts to suppress trusts and monoplies, to prevent unlawful combinations of great corporate interests detrimental to public good, to enlarge the scope of the Inter-state Commerce Law for the welfare of the people, and to maintain the power and control by the general government of the gigantic corporations of the country.

RESOLVED, That the Secretary of State be hereby directed to transmit a copy of these Resolutions to the President of the United States, Theodore Roosevelt, to the President of the Senate of the United States, and to the Speaker of the House of Representatives of the United States.

Approved March 2, 1905.

HOUSE JOINT RESOLUTION NO. 10.

Be It Resolved by the House of Representatives of the Ninth Legislative Assembly, the Senate concurring, that the Attorney General of the State of Montana be, and he is hereby authorized and directed to forthwith institute and diligently prosecute an official inquiry and investigation into the business, affairs and operatons of any and all person or persons, companies, corporations, combinations or trusts doing business in the State of Montana in violation or contravention of the Constitution and laws thereof. In the event that the said investigation shall disclose the violation of the Constitution or any law of this State, the said Attorney General is hereby required and directed to take such appropriate action, either civilly or criminally, or both, as may be deemed necessary or expedient to compel the observance by any and all such person or persons, companies, corporations, combinations or trusts of the provisions of the said Constitution and laws, and to punish the violation thereof.

Approved February 28, 1905.

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